

R E P O R T

FROM THE

SELECT COMMITTEE

ON THE

B A N N D R A I N A G E B I L L ;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

AND

M I N U T E S O F E V I D E N C E .

*Ordered, by The House of Commons, to be Printed,
22 July 1889.*

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BANS DRAINAGE BILL.

[*Tuesday, 25th June 1889*]:—ORDER read for resuming Adjourned Debate on Question (24th June), That the Bill be committed to a Select Committee of Nine Members, Five to be nominated by the House, and Four by the Committee of Selection."

Question again proposed:—Debate resumed:—

Question put, and agreed to.

Bill committed to a Select Committee of Nine Members, Five to be nominated by the House, and Four by the Committee of Selection.

Ordered, THAT all Petitions against the Bill presented Two clear days before the meeting of the Committee be referred to the Committee; that the Petitioners paying to be heard by themselves, their Counsel, or Agents, be heard against the Bill, and Counsel heard in support of the Bill.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records:

Ordered, THAT Three be the Quorum.

Committee nominated of,—

Mr. Plunket.
Mr. O'Neill.
Mr. Phillips.
Mr. Finkertou.
Mr. T. W. Russell.

Nominated by the House.
[*Thursday, 11th July 1889.*]

Mr. Cox.
Mr. Coddington.
Mr. Morrison.
Mr. P. J. Power (Waterford E.).

Added by the Committee of Selection.
[*Thursday, 11th July 1889.*]

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R E P O R T.

THE SELECT COMMITTEE on the BANN DRAINAGE BILL;—HAVE Examined the Allegations of the Bill, and found the same to be true, and have gone through the Bill, and made Amendments thereunto.

22 July 1889.

PROCEEDINGS OF THE COMMITTEE.

Friday, 12th July 1869.

MEMBERS PRESENT:

Mr. O'Neill.
Mr. Philipps.
Mr. Pinkerton.

Mr. Plunket.
Mr. T. W. Russell.

Mr. PLUNKET was called to the Chair.

[Adjourned till Thursday next, at Quarter-past Twelve o'clock.

Thursday, 18th July 1869.

MEMBERS PRESENT:

Mr. PLUNKET in the Chair.

Mr. Coddington.
Mr. Cox.
Mr. Morrison.
Mr. O'Neill.

Mr. Philipps.
Mr. Russell.
Mr. Pinkerton.

THE BANK DRAINAGE BILL.

Mr. Lintler, Q.C., and Mr. Bohm, appeared as Counsel for the Bill.

Three Petitions against the Bill, were read.

1. B. L. Moore and others.

Counsel:—Mr. Pope, Q.C., and Mr. Claude Baggallay.

Agents:—Messrs. Wyatt & Co.

2. The Irish Society.

Counsel:—Mr. Pope, Q.C., and Mr. Claude Baggallay.

Agents:—Messrs. Wyatt & Co.

3. Edward Armstrong O'Neill.

Counsel:—Mr. Fitzgerald.

Agents:—Messrs. Field, Escoe & Co., Solicitors.

Mr. Lintler, Q.C., addressed the Committee in support of the Bill.

Mr. John George Gamble, Mr. William J. O'Neill, Mr. Robert Manning, Sir William Conyngham, K.C.B., Mr. Marcus George, and Mr. W. Eccles, were severally sworn, and Examined.

The Room cleared.—Committee deliberated.

Witness ordered to Attend.

[Adjourned till Twelve o'clock, To-morrow.

Friday, 19th July 1889.

MEMBERS PRESENT:

Mr. PLUNKET in the Chair.

Mr. Cox.
Mr. O'Neill.
Mr. Russell.
Mr. Philippe.

Mr. Pinkerton.
Mr. Coddington.
Mr. Morrison.

Mr. W. Ellis, Mr. J. Kelly, Mr. Robert Douglas, Mr. E. S. O'Brien, Mr. David Graham, Colonel Beraford Bruce, and Colonel Waring (a Member of the House), were severally sworn and examined.

The *Chairman* suggested that the evidence for the Petitioners should be next called, but—

Mr. Pope, Q.C., for the Petitioners, stated their opposition to the Preamble was withdrawn.

Mr. Gamble was re-called, and further examined by Mr. Lardner, Q.C.

The room cleared. The Committee deliberated.

Preamble read a second time.

Question, That the Preamble is proved,—put. The Committee divided:

Ayes, 6.
Mr. Cox.
Mr. Coddington.
Mr. Morrison.
Mr. O'Neill.
Mr. Russell.
Mr. Pinkerton.

Noes, 1.
Mr. Philippe.

Parties called in, and informed of the decision of the Committee.

Clauses considered.

Clause 1, *agreed to*.

Clause 2, *agreed to*.

Clause 3.—Amendment proposed, in page 2, line 37, to leave out the word "of," in order to insert the words "not exceeding" instead thereof.—(Mr. Russell).—Question, That the word proposed to be left out stand part of the Clause,—put, and negatived.

Question, That the words "not exceeding" be there inserted,—put, and *agreed to*.

Clause, as amended, *agreed to*.

Clauses 4—5, *agreed to*.

Clause 6, *agreed to*.

Clause 7, *agreed to*.

[Adjourned till Monday next, at Twelve o'clock.

Monday, 22nd July 1889.

MEMBERS PRESENT :

Mr. PLUNKET in the Chair.

Mr. Cox.
Mr. Coddington.
Mr. Russell.
Mr. Pinkerton.

Mr. Phillips.
Mr. Morrison.
Mr. O'Neill.

The Clauses of the Bill were further considered.

Clause 8.—Amendment proposed, in page 5, line 20, to leave out from the word "and" to the word "with" in line 21.—Question, That the words proposed to be left out stand part of the Clause,—put, and *negatived*.

Clause, as amended, *agreed to*.

Clause 9.—Amendment proposed, in page 5, line 30, to leave out the word "fourth," in order to insert the word "third" instead thereof.—(Mr. *Pinkerton*).—Question, That the word "fourth" stand part of the Clause,—put, and *negatived*.

Question, That the word "third" be there inserted,—put, and *agreed to*.

Another Amendment made.

Clause, as amended, *agreed to*.

Clause 9.—Amendment proposed, in page 7, line 8, to leave out the word "six," in order to insert "three" instead thereof.—(Mr. *Pinkerton*).—Amendment, by leave, *withdrawn*.

Clause 9, *agreed to*.

Clause 10, *agreed to*.

Clause 11, *agreed to*.

Clause 12, page 9, line 15, an Amendment proposed, after "pounds" to insert "a sum not exceeding"—(Mr. *Russell*).—Question, That those words be there inserted,—put, and *agreed to*.

Another Amendment, in line 16, to insert after "and" the words "a sum of"—Question, That those words be there inserted,—put, and *agreed to*.

Clause 12, as amended, *agreed to*.

New Clause brought up, and read a first and second time.—An Amendment proposed, in line 4, after the word "any," to insert "damage."—Question, That the word "damage" be there inserted,—put, and *agreed to*.

Another Amendment proposed, in line 4, after the word "by," to insert the words "the exercise of any of the powers of this Act."—Question, That those words be there inserted,—put, and *agreed to*.

New Clause, as amended, *agreed to*, and *added*.

Clause 13, *disagreed to*.

New Clause brought up, and read the first and second time, and *added*.

Clauses 14—15, amended, and *agreed to*.

Clause 16, *disagreed to*.

Clauses 17—18, amended, and *agreed to*.

Clauses 19—22, *agreed to*.

Clause 23, amended, and *agreed to*.

Clauses 24—28, *agreed to*.

Clause 29, amended, and *agreed to*.

A new Clause was proposed to be inserted on behalf of the Petitioner, W. O'Neill.

Mr. *Gowdie* was re-called, and further examined.

Committee deliberated.

Question, That that Clause be there inserted,—put, and *negatived*.

Clause

Clause 30.—An Amendment proposed, in page 16, line 39, to leave out all the words after "Commissioners" to the end of the Clause—(Mr. Russell).—Question, That the words proposed to be left out stand part of the Clause,—put.—The Committee divided:

Ayes, 4.	Noes, 3.
Mr. Coddington.	Mr. Cox.
Mr. O'Neill.	Mr. Morrison.
Mr. Phillips.	Mr. Russell.
Mr. Pinkerton.	

Another Amendment proposed, in page 16, line 40, after "exceeding," to leave out the word "fifteen," in order to insert the word "ten," instead thereof—(Mr. Pinkerton).—Question, That the word proposed to be left out stand part of the Clause,—put, and negatived.

Question, That the word "ten" be there inserted,—put, and agreed to.

Clause, as amended, agreed to.

Clauses 31—33, agreed to.

Clause 34, amended, and agreed to.

Clause 35, agreed to.

Clauses 36—40, agreed to.

Clause 41, amended, and agreed to.

Clause 42.—An Amendment proposed, in page 24, line 35, after "Nough" to insert the words "and in the canal between Lough Neagh and the Troom Railway Station."—Question, That those words be there inserted,—put, and agreed to.

Another Amendment made.

Clause, as amended, agreed to.

Clause 43, agreed to.

Clause 44, amended, and agreed to.

New Clauses brought up, read the first and second time, and added.

Schedule agreed to.

Question, That the Bill, as amended, be reported to the House,—put, and agreed to.

Ordered, To Report the Bill, as amended, to the House, together with Minutes of Evidence.

EXPENSES OF WITNESSES.

NAME OF WITNESS.	PROFESSION OR CONDITION.	From whence summoned.	Number of Days Absent from House, under Orders of Committee.	Allowance during Absence from House.	Expenses of Journey to London and back.	TOTAL Expenses allowed to Witness.
Mr. Marcus Gage	Justice of the Peace	Ballymoney, Ireland	4	£ 4 -	£ 10 -	£ 14 -
Mr. Robert Douglas	Land Valuer	Ballymoney, Ireland	4	£ 5 -	£ 10 -	£ 15 -
General Sir W. Coxey- Hall, K.C.B.	Gentleman	Spring Hill, Hemyngs, County Londonderry.	4	£ 4 -	£ 11 -	£ 15 -
Mr. William Ellis	Merchant and Ship- owner.	Coleraine, Ireland	4	£ 4 -	£ 10 -	£ 14 -
Mr. E. S. O'Grady	Secretary	55, Clare-street, Dublin	4	£ 4 -	£ 7 6	£ 11 6
Colonel H. Boscawen Brooke	Gentleman	Ballyvaughan, Castle Lisbon, old Belmest.	3	£ 5 -	£ 6 7	£ 11 7
Mr. David Graham	Superintendent of Harb- our Navigation.	Armagh, Killybegs, County Derry.	4	£ 4 -	£ 11 -	£ 15 -
TOTAL						£ 78 - 1

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Monday, 22nd July 1889.

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MINUTES OF EVIDENCE.

Thursday, 18th July 1889.

MEMBERS PRESENT :

Mr. Coddington.
Mr. Cox.
Mr. Morrison.
Mr. O'Neill.

Mr. Phillips.
Mr. Plunket.
Mr. T. W. Russell.
Mr. Pinkerton.

THE RIGHT HONOURABLE DAVID PLUNKET, IN THE CHAIR.

The Petition for the Bill was read :

Mr. *Littler*, *q.c.*, and Mr. *Cripps* appeared as Counsel for the Bill.
Messrs. *Sherwood & Co.* appeared as Agents.

The following Petitions against the Bill were read :

The Petition of Edward Armstrong O'Neill :

Mr. *J. D. Fitzgerald* appeared as Counsel in support of the Petition.
Messrs. *Field, Roscoe & Co.* appeared as Agents.

The Petition of the Honourable Irish Society :

Mr. *Pope*, *q.c.*, and Mr. *Claude Beggallay* appeared as Counsel in support of the Petition.
Messrs. *Wyatt, Hoskins, Hooker, and Williams* appeared as Agents.

The Petition of R. L. Moore and others :

Mr. *Pope*, *q.c.*, and Mr. *Claude Beggallay* appeared as Counsel in support of the Petition.
Messrs. *Wyatt, Hoskins, Hooker, and Williams* appeared as Agents.

Mr. *Littler* was heard to open the case for the Bill.

MR. JOHN GEORGE GAMBLE, sworn ; and Examined.

Mr. *Littler*.

Mr. *Littler*—continued.

1. You, I think, were for some years under Sir John Hawkshaw?—Yes.

2. And you subsequently practised as Chief Hydraulic Engineer to the Government of the Cape Colony?—Yes.

3. You have made a careful study and examination, have you not, for the last two years of the Lower Bann drainage area?—Yes.

4. And with regard to the basin of Loch Neagh and the Lower Bann you were employed by the Commission to do that?—Yes.

5. And you reported to them?—Yes.

Q.128.

6. The basin of Loch Neagh and the Lower Bann is 2,200 square miles, and the circumference over 300 miles?—Yes.

7. I do not know that I need ask you very much about the early history of the Bann, because it all appears upon the face of the Commissioners' Report, does it not?—Yes.

8. And you do not wish to add anything to that?—No.

9. So far as you can ascertain, was there any special investigation as to whether the original designs were the best for drainage purposes?—No.

A

10. And

16 July 1889.]

Mr. GAMBLE.

[Continued.]

Mr. Little—continued.

10. And I do not think that there was any special investigation to see whether the designs themselves had been strictly followed?—No.

11. For some years, I think, after the construction of the works the rainfall was not very heavy, and the river channel carried off all the floods very satisfactorily, did it not?—Yes.

12. Afterwards partly owing to the increase of land reclamation, and still more owing to the neglect of dredging which the Commissioners had to do, the river channel proved insufficient, did it not?—Yes.

13. The fact being that the Lower Bann Navigation Trustees for a long time disclaimed any liability beyond that of maintaining a navigable course?—Yes.

14. Also from the construction of solid weirs that happened, which so constantly does happen, did it not, that the river lost its original scouring power?—Yes.

15. I suppose with regard to the history of the navigation, that is an accurate description which is given in the Commissioners' Report?—Yes.

16. I believe the extent of flooded land has been estimated at present at 27,000 acres above Portna Weir and 2,000 acres below?—Yes.

Chairman.

17. Would you point out to the Committee on the map where Portna Weir is?—It is there (pointing to the map). When the gentleman is pointing to there are 27,000 acres above that point and 2,000 acres below it.

Mr. Little.

18. That is to say the land liable to be flooded and injured is 25,000 acres altogether?—Yes.

19. There were previous recommendations of Mr. Manning, Mr. O'Neill and Mr. Barton, were there not?—Yes.

20. I think you generally concur with the recommendations which they from time to time have made, except in this respect, that you concur with the recommendations of Sir James Allport's Commission, that the navigation should be stopped during the progress of the works?—Yes.

21. You propose to reduce the navigable depth in future to what is practically available in the Laggan, Newry, and other navigations, which use Loch Neagh?—Yes; I do not propose to abandon the navigation entirely, but to reduce the navigation. The Royal Commission proposed to abandon it entirely.

22. And that can be done, can it not, within the sum that you have estimated?—Yes.

23. Then you will leave a 5 ft. 6 in. navigation, even after the works are finished?—No, a 5 ft. navigation.

24. Will that be, in your judgment, quite sufficient for any class of vessels that are likely ever to use that navigation?—Yes.

25. That, of course, will not put you to the expense of keeping it up as a navigation, as at present?—No; it would save that expense.

26. I believe you propose, first of all, starting from Coleraine itself, that the Cutts Weir which has an irregular crest should be reduced to the uniform level of its lowest portion, and that there should be sluices inserted?—Yes.

Mr. Little—continued.

27. That, in itself, would be a great relief to the river?—It would be the same level as the lowest reach.

28. Then the channel of the river you propose between Cutts and the Derry Central Railway Bridge should be deepened?—Yes.

29. From Derry Central Railway Bridge to Carnroe Weir you propose to embank the river, do you not?—Yes.

30. That is shown by the red lines which honorable Members will see on each side of the river?—Yes.

31. At Carnroe, and some other weir which I cannot read, it is to be lowered 2 ft. 6 in.?—Yes. Carnroe and Moanagher Weirs are to be lowered 2 ft. 6 in.

32. And Portna Weir will be lowered 2 ft. 6 in.?—Yes, it will be.

33. Then above Portna you propose some rock excavation, do you not?—A very considerable amount of rock excavation.

34. That is just where the pointer is between the word "Portna" and the words "Weir and Rock" above it on the plan?—Yes.

35. You propose to excavate the shoals at Port Glenow?—Yes.

36. And to excavate the channel between Loch Beg and Loch Neagh?—Yes, there is very heavy excavation at Port Glenow.

37. Would it be financially practicable, having regard to the extent of Loch Neagh, to permanently lower Loch Neagh below its summer level?—No, not financially practicable; it would be very costly for various reasons.

38. The eel fisheries at Toome are, I believe, a great obstruction to the drainage?—Yes, they are a great obstruction.

39. But the value of those fisheries is so great that you do not propose permanently to interfere with any legal fisheries, do you?—We do not.

40. And if temporary interference is necessary you intend that it shall be done, and that it can be done, at a time when no eel fishing is going on there, do you not?—Yes.

41. The Portna eel fisheries, I believe, are no obstruction to the drainage?—No, they are no obstruction.

42. And you do not interfere with them at all?—We do not interfere with them at all.

43. With the salmon fisheries be anywhere interfered with at all?—Nowhere.

Mr. Cox.

44. They will in no way be injured?—No, they will be benefited.

Mr. Little.

45. As regards the lowering of the weirs, in your judgment, will it benefit both the salmon and the eel fisheries?—It will benefit them both.

46. It will enable both the eel fry and the salmon to get up more easily?—Yes.

47. At Toome will the sluices benefit the eel fisheries below?—Yes, they will.

48. To meet that point raised in one of the petitions as to the predatory operations of the poachers will the sluices enable eels to get out of the lake where in a dry autumn they are very often caught by the poachers?—Yes, in the dry autumn they cannot get over the weir, and they are

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MR. GAMBLE.

[Continued.]

Mr. Litter—continued.

are caught by the poachers at the lock sluices, and an autumn flood will enable the eels to get out of the lake and go down to the slips below.

49. You do not propose to reduce the summer level lower than what it has hitherto been, which, I think, is only 46 feet above low-water of ordinary spring tides at Coleraine, is it not?—Yes.

50. At the present time, in a dry season, owing to the defects in the Toome Weir, the level of the lake is frequently below this, is it not?—Yes.

51. And that has been an inconvenience to boats using the Newry of the other navigations?—Yes.

52. And that will be to a certain extent obviated by what you are doing, will it not?—Yes.

53. So that it will improve the navigation of the Newry Canal, and also other navigations?—Yes.

54. Then with regard to the higher level, what do you propose to make the higher level?—Two feet above the summer level; not any higher than that.

55. I believe you have made a careful examination, have you not, of all the flood records ever since measurements have been kept?—Yes.

56. And you have also made calculations as to what would have been the level on the occasion of all those floods if the now proposed works had been carried out, and the same quantity of water discharged into the lake as on those occasions?—Yes.

57. What do you find?—I find that only one flood, namely that of 1877, would have risen above this level, and then only six inches.

58. Forty-eight feet six would have been the very highest?—Yes; that flood rose four feet above the level.

Mr. T. W. Russell.

59. The flood of 1877 was a very exceptional flood, was it not?—Yes, it was a very exceptional and unusual flood.

Mr. Litter.

60. I was just going to ask you, I think all research shows that that is the only one which would have been beyond your means of control?—Yes. I have compared every other flood on the supposition that the proposed works were carried out, and they would all have been well below 48 feet.

61. And with regard to that one it would have been only six inches difference?—Only six inches, instead of four feet.

Chairman.

62. To what extent would the rising of the river, after your proposals are carried out, supposing there was such a flood as that of 1877, injure the adjacent lands?—Very slightly indeed.

Mr. Litter.

63. Could you say what proportion of the 25,000 acres would have been injured if the river had risen only six inches instead of four feet?—Mr. O'Neill will probably give evidence upon 0.129.

Mr. Litter—continued.

that point, as he knows more about it, but it would be very slight.

64. May I take it that your proposed works will practically obviate all mischief from flooding throughout the whole of the district which is affected?—Yes.

65. I think your proposed works will give a discharge of 600,000 cubic feet per minute at Toome, increasing to 800,000 cubic feet at the Cutts?—Yes.

66. That, I think, is considerably more than the quantity that was calculated for by Mr. McWhone, who designed the navigation works, I think?—Yes, he designed the navigation works.

67. Your estimate for the proposed works is 65,000 £, is it not?—Yes.

68. A large portion of that is for excavation on the reach between Portna and Toome?—Yes.

69. Can you say how much?—More than half.

70. In your judgment can the proposed works be well executed within your estimate?—Yes.

Cross-examined by Mr. Fitzgerald.

71. I understand from the answer you last gave, that the estimate is 65,000 £?—Yes.

72. That is for the construction of works, I presume?—Yes.

73. It is a debatable question is it not, whether those works will injure the fisheries or not?—I do not consider it a debatable question.

74. You think not?—Yes; I have endeavoured to design the works so that they shall not injure the fisheries in any way, but rather benefit them.

75. Assuming that you are not successful in the future, and that substantial injury is done to those fisheries, I take it that it would be reasonable that the owners of the fisheries should get compensation?—Yes.

76. Probably you have noticed that there is no fund provided in the Bill out of which that compensation is payable?—There is no fund provided for it in the Bill.

77. Therefore, you will agree with me that in that respect the Bill is defective?—No, I do not think the Bill is defective, because I firmly believe that these works will not injure the fisheries.

78. Assuming that certain damage is done, surely a fund ought to be provided out of which that damage is to be paid?—I do not think that the Bill is calculated to provide for improbable contingencies.

79. You think that the contingency is improbable, and that no provision should be made for it?—Quite so.

80. For instance, you take powers temporarily to remove the eel weir, some damage may be done by that, although it may be slight?—During the time that the eels are not coming down.

81. Nevertheless some damage may be done?—I do not think so.

82. How is it to be paid for if any damage is done?—Any damage that could be done would be so small that it could be paid out of the

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Mr. GAMBLE.

[Continued.]

Mr. Fitzgerald—continued.

margin for contingencies, but I do not see how any damage can be done.

83. You are aware that eel fry come up the river at certain periods of the spring?—Yes.

84. And it is at that period that you propose to remove the eel weir?—That was previously proposed by the owners of the weir themselves.

85. If during that period in the construction of the works you prevent the eel fry coming up, that necessarily damages the weir for the next season?—If we prevented the eel fry coming up it would, but that is the question. The eel fry come up all along the banks, and we shall not interfere with the eel fry in the least.

86. Do you see any objection to the insertion in the Bill of a proviso, that you shall so construct the works that the eel fry shall not be prevented coming up to Loeh Neagh?—I see no objection to that.

87. When the works are constructed the 65,000 £. will be spent?—Yes.

88. If it turns out contrary to your opinion that considerable damage is done to the eel fry, there is nothing to pay for it?—No.

Cross-examined by Mr. Claude Baggallay.

89. Supposing that the result of any works carried out by the Commissioners, or any works afterwards done by the Conservancy Board, should injure the fishery of the Irish Society or their lessees, there is no provision in the Bill for any compensation to them?—No.

90. You mentioned just now, did you not, that at Cutts Weir you propose to construct sluices?—Yes.

91. Are you clear that the construction of sluices there would not be prejudicial to the fishery?—I do not consider the construction of sluices in Cutts Weir essential to the scheme in any way.

92. That does not answer my question; the question I asked you was whether, if you constructed sluices there, the construction of those sluices may not be prejudicial to the fisheries?—Not if they are properly constructed.

93. You have made up your mind about that, have you?—Yes, I believe so.

94. Have you considered that point?—I have considered it.

95. Have you made any special investigation as to what the effect of the sluices and the construction of the weir near the crib would be?—If there is the slightest doubt—

96. Have you made any investigation?—I have inquired about it.

97. Have you prepared any plan of the works which you propose to carry out; have you plans and specifications of the way in which you use up this 65,000 £.?—I have got plans, but not specifications at present.

98. No plans in this case have been deposited, have they?—No plans have been deposited.

99. And the Commissioners will not be tied down to carry out any particular works which are authorised by the Bill?—That is a legal matter.

100. You are not aware that that is so?—I do not know.

101. Are you aware that under the Bill the

Mr. Claude Baggallay—continued.

Commission will have to submit certain plans of works to the Conservancy Board?—Yes, all plans must be submitted.

102. No, not all plans. You have to submit plans; it does not say all plans. The Board may or may not approve of them, and they will have two opportunities of considering them?—Yes.

103. Supposing that they approve of them, is it not in the power of the Commissioners to go to the Council and get an order in Council, varying those plans?—I believe so.

104. Whether they should or should not be pleasing to the Conservancy Board there is no occasion to go again to the Conservancy Board?—I am not sufficiently acquainted with the Bill to be sure of that. It is not an engineer's point.

105. Let me ask you about another point. Are you aware that under one of the clauses, Clause 11 of your Bill, independently of what may be shown on any plan, the Bann Commissioners have the very widest powers of doing all the works which they may show on the plan without ever submitting a plan at all to anybody?—Yes.

106. Notwithstanding your having submitted a plan you can do practically the same sort of works without any plan, are you aware of that; have you read the Bill?—Yes, I have read the Bill.

107. Where are these gratings in the sluices to which you referred just now?—If the fishery conservators thought that they would be any advantage they could be easily put in front of them, that is all; they are only small sluices; the ones at Cutts Weir are quite small sluices.

108. The sluices which you propose to put in are only small sluices?—The ones at Cutts, Cutts Weir, are only small sluices, at Toome they are large sluices.

109. Have you got a plan of those sluices?—Yes.

110. Would you kindly let me see it?—It is in Westminster; I could produce it to-morrow.

111. We should like to see the plans of those various works?—I can produce them to-morrow morning.

112. Will you also produce to us your estimate showing how you are going to spend this 65,000 £.?—Yes.

Mr. Cripps.] I can give you full information upon the plan. I take it that that is to be settled in the future.

Mr. Claude Baggallay.] You are leaving everything to the future, absolutely uncontrolled by anything in the Bill.

Mr. Cripps.] That is a matter of argument when you are asking about matters which are to be settled in future, we cannot give you any information now. You know the scheme of the Bill will be definitely settled at some future date.

Chairman.] I think we had better settle this when a definite question is asked upon it.

Mr. Claude Baggallay.] On page 2 of the Bill, it is recited as follows: "And whereas the total cost of the works proposed for the purposes

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Mr. GAMBLE.

[Continued.]

Mr. Claude Baggallay—continued.

purposes of this Act, as estimated, will amount to about sixty-five thousand pounds." And then, in Clause 12 of the Bill, it goes on to say: "The cost of the works to be executed for the purposes of this Act shall be defrayed in the following manner." It proposes to make a provision of £5,000 l. What I ask for is the estimate upon which that £5,000 l. is based; and I submit that I am entitled to it.

Chairman.] I understand the Witness to say that he has not got it at present with him, but that he could bring it to-morrow; would not that be a most convenient time to ask the question?

Mr. Claude Baggallay.] I suppose, under those circumstances, I may reserve until to-morrow any cross-examination which may arise upon the estimate or upon the details.

Chairman.] Yes, you may reserve your cross-examination upon the estimates until we have them before us.

Mr. Cripps.] Do you raise any question upon the estimates.

Mr. Claude Baggallay.

113. Certainly, most distinctly. (To the Witness.) After the Commissioners have carried out certain works, the Commission will cease to exist; its powers will lapse, will they not?—Yes.

114. After that period the Conservancy Board will have the duty of maintenance cast upon them?—Yes.

115. You have read the Bill, have you not?—Yes.

116. In Clause 13, have you observed that that clause is not limited to maintenance; but that it enables the Conservancy Board to enlarge the works?—Yes.

117. It will enable the Conservancy Board, will it not, to vary the works which may originally have been executed by the Commissioners?—Yes.

118. And it is possible that those works may result in injury to the fisheries, may it not?—It is possible.

119. And if any compensation ought to be payable to the owners of the fisheries, by reason of the execution of those works, would it not be right that the Conservancy Board likewise should be made liable to pay compensation?—Yes.

Mr. Cripps.] Under Clause 28, sub-section 1, we could not do any injury to the fishery.

Mr. Claude Baggallay.] I shall be prepared to argue upon the construction of Clause 28 at the proper time. I may just state it shortly now. I say that on Clause 28 I shall have to argue eventually, and to argue that it provides that "Nothing in this Act shall authorise or empower the Commission or the Conservancy Board" to do any work which will injure the fishery, that is to say, any permanent work. It does not prevent them doing certain works which, at the time of doing them, may not injure the fish, but

Mr. Claude Baggallay—continued.

which may result eventually in having done an injury, when that being ultra vires work, we shall be unable to get compensation.

Mr. Cripps.] Of course, the owner would be able to prevent your doing it.

Chairman.] I am sorry to interrupt counsel, but we shall never get to the end of the case if we argue those points on cross-examination.

Mr. Cripps.] I merely point out that on the framing of the Bill the question could not arise.

Mr. T. W. Russell.] Mr. Lister's point is that the question of compensation is one of clauses.

Mr. Claude Baggallay.] I am taking it now otherwise; we shall have to recall the engineer to go into this matter. (To the Witness.) One other thing: Have you considered whether or not the rapid alteration between what we may call a flooded state of the river, and a low water state is very injurious to the fisheries?—Yes: I have considered that.

120. You understand what I mean, that the very rapid rise and fall of a river, which may be accelerated by the works, is injurious to the fisheries?—I do not think it will be accelerated by the works.

121. You mean to say that drainage works do not tend to increase the rapidity with which flood waters are carried off?—In some cases they do.

122. What will be the effect of the works in that respect; will not the effect of the works be to carry off more rapidly the flood water?—No, it will make it more equable. The floods will be very much lessened, and be distributed over a longer period of time. There will never be such great floods or such high velocities as there are at present.

123. As a matter of fact, in the case of Loch Erne, there were very large fishery claims made, were there not?—I do not know anything about Loch Erne.

124. It is referred to in the Report?—Yes, I know what it is in the Report.

125. But you know nothing more about it?—No.

126. Have you considered what provisions were made for the protection of the Irish Society and their fisheries in previous Acts relating to the Ban?—No.

127. In fact you come here purely as an engineer, do you not?—Yes.

128. Have you considered the question of the cultivation of fish or fisheries at all?—No, I have not considered the question of the cultivation of fish specially.

Chairman.

129. Would you tell the Committee why it was, and on what ground, you differed from the Report of the Commission as to preserving the navigation at all?—The Commission left me a free hand to modify the designs; in fact, they desired me to use my own judgment in modifying the designs; and I thought it a great pity that

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Mr. GAMELE.

[Continued.]

Chairman—continued.

the navigation should be entirely abandoned, and I thought that a five-foot navigation would answer all the purpose. It is all that they get in the Laggan Canal; and on the Royal and Grand Canal it is only 4 ft. 6 in. I thought that a five foot navigation would answer all the purposes. It would, perhaps, not be financially desirable, but at any rate it would be sentimentally desirable to preserve the navigation, and it might stop opposition.

130. Do I understand you to say that a five foot navigation would be availed of by a considerable amount of traffic?—I am afraid not.

131. What would be the difference of expense between carrying out your scheme for preserving the navigation and abandoning it altogether?—Very small, hardly worth considering.

132. What do you mean by very small?—I do not think in the first cost of the works that it would make 5,000 l. difference.

133. In the subsequent maintenance, what would it be?—The subsequent maintenance of it would depend upon what total abandonment meant. If you settle the principle in the case of the lock gates in case of a possible future requirement of the navigation I do not think there would be very much difference, because you would have to have somebody, even if you abandoned the navigation to preserve those lock gates; so that it would be practically the same thing whether you preserve a navigation which is not used at all, or whether you preserve a navigation which is used in a reduced form.

134. Do you consider that there is any prospect in future of this five foot navigation which you would preserve, being availed of to a greater extent than it is at present?—I am afraid not.

135. I suppose there is no doubt that the preventing of those great floods which the works are intended to prevent would be a very great advantage to the adjacent country?—Yes.

136. Do you know a better that is an improvement which has been frequently called for?—Yes, there have been several deputations to the Lord Lieutenant from time to time ever since the works were finished asking for fresh works.

137. You can confidently say that there is great demand for such improvements in the drainage?—Certainly.

138. I did not quite understand the answer you gave about the effect of your proposed works in making the velocity of the stream more equable throughout the year?—Chiefly by the sluices in the Toome Weir. Toome Weir is an outlet of Lough Neagh, and by putting large and wide sluices in that weir we let the flood-water down a long time before it can get down at present; and as soon as the water begins to rise over summer level we begin to let the water down.

139. Is it your opinion that the interests of the fisheries would be less interfered with by such equable velocities that you would have in the stream all the year through, than it is at present by the occurrence occasionally of great floods?—I think so.

Mr. Coddington.

140. What kind of boats will be able to run on the river with five feet depth?—Any boat that can go through the Laggan, or the Newry, or the Ulster navigations.

141. What depth is the navigation now?—The Laggan is five feet.

142. What depth is the navigation of the Bann now?—Seven feet.

143. Then you would reduce it two feet?—Yes.

144. I do not quite understand you where the embankments will be; is it where those red lines are?—Yes, where the red lines are between Carrone and Derry railway bridge.

Mr. Phillips.

145. What sort of soil are the banks where you propose to make those banks of lower down the river?—That is alluvial soil.

146. Will not there be some danger when those banks are made of the banks crumbling away?—No; they are only small banks like the banks of the Blackwater.

147. How high will the banks be?—Four or five feet.

148. What would be the cost of clearing away the navigation works altogether?—I have not estimated that; you would have to specify exactly how much you want cleared away; I could not estimate that to a few feet.

149. I see here that the total receipts from the navigation of the river are only 10 l. a year; you are going to reduce the depth of the river from 7 feet to 5 feet; is it not likely that in future that the receipts from the reduced navigation will be even less than they are now?—I do not suppose that it will improve the receipts at all.

150. Would it not be worth considering then whether the whole of the navigation works should not be swept away?—I think that would be a pity, you do not know what might happen; and it would cost a great deal to put them back again, and it would not advantage the drainage appreciably.

151. But it might advantage it to some extent?—To a very small extent; sweeping away the navigation works entirely would probably bring you into even more trouble with the fisheries than we are open to as it is.

152. The river would be in a natural state?—Yes, the river would be in a natural state if you sweep it all away.

153. Is it not possible that the sweeping away of the navigation altogether, and leaving the river in a natural state might satisfy the weirs demand, and satisfy the drainage demand?—Yes. You must have a great deal of excavation if you sweep away the navigation works to-morrow, and if a big flood were to occur again it would make very little difference indeed.

154. Could you, when you produce your estimates to-morrow, give an estimate of what it would cost to sweep away those navigation works altogether?—I do not know that I could; I have never looked at it from that point of view. Of course it would not cost much to put dynamite into the weir and blow the weir up. That is one thing I suppose that you would want.

155. That

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MR. GAMBLE.

[Continued.]

Mr. Phillips—continued.

155. That would be a very cheap thing?—I do not suppose it would cost much.

156. What do you say about improving the fishery; how could your proposed works possibly improve the fishery?—It would enable the salmon and eel fry to get up by lowering the weir and the sluices at Toome and enable the eels to get out of the loch.

157. You said something about stopping poaching in the Lough, what did you mean precisely by that?—The eels get out of the Lough. In dry time, at present, they cannot get out, and the poachers get them. If there were sluices in the weir they would come through the sluices, whereas before that they would make a rush over the crest of the weir itself.

Mr. Marriam.

158. By diminishing the depth of the navigation you would not diminish the expense of maintenance, would you?—No, but we facilitate the drainage. To take two feet of Toome Weir will do as much, or nearly as much, as taking away Toome Weir altogether. If I were to take away Toome Weir altogether, I should only lower the flood in Lough Beg (that is a little lough below there) nearly three inches; it would only make it three inches better taking the weir away altogether than it is at present.

159. The annual outlay is 1,100 £, and the receipts 70 £; is the work of keeping up that expense disproportionate to the benefits received?—They are very valuable works; they have cost a very large sum of money already.

160. Is there any value in works which are a losing concern?—A prospective value.

161. There are no salmon leaps now; the salmon come up the weirs, I understand?—The Cutts is a sort of salmon leap; they come up. I do not know what the technical term is.

Mr. Cox.

161*. Suppose you leave a five feet navigation, would that benefit the drainage?—It would benefit the drainage enormously to take off two feet.

162. Another two feet?—That would be sufficient. Another two feet would make no navigation at all. If you were to sweep away Portna Weir, you would only make the floods in Lough Beg three inches lower than I propose by taking it down two feet six. That is in consequence of the narrow channel.

Mr. O'Neill.

163. You propose to keep up your present loughs?—Yes.

164. And consequently the lock-keepers would remain there, and there would be no diminution of expense?—If there is no navigation the keepers need not be living there, they would have to be looked after occasionally; you do not require a man to be living there constantly unless there are boats going through.

165. Have you made any calculation of what reduction there would be in the navigation expenses?—The maintenance of the drainage would be practically inappreciable, because while they are looking after the drainage they can look after the locks as well.

O.129.

Mr. O'Neill—continued.

166. Nearly all this 1,100 £ a year which is now spent would be done away with?—It will probably become a part of the maintenance of the drainage, and it can be done at the same time. As long as no navigation is wanted it would not appreciably add to the expense of maintenance of the drainage, they must look after the locks.

Mr. T. W. Russell.

167. How many locks are there?—Five locks, and one of them is double.

168. Are they all in a good state of repair?—They are in fair repair I think. I have not examined the gates.

169. Do you know that there is a considerable feeling in the neighbourhood that the mere doing away with the navigation works would remedy the whole mischief?—I know that there is that feeling in the neighbourhood.

170. Do you agree with it?—No.

171. Do you know any engineer who is of that opinion?—No.

172. In your opinion the clearing away of the navigation works which have been erected at enormous cost and are in excellent repair, would not secure the object that you have in view?—Certainly not.

173. You say that the receipts from the navigation amount to 70 £ a year?—Yes, and the maintenance has been 1,100 £.

174. Can you tell me how that is made up; is that all due to the navigation?—Yes, that is navigation, maintenance, and the maintenance of the locks. Mr. O'Neill will probably give you more detailed information.

175. What is the proposed embankment at Carnroe; you say it is practically the same as those in the Blackwater?—They will be all the same as those in the Blackwater.

176. Do you know whether there is a feeling in the neighbourhood against the embankment at Carnroe?—Yes, I have heard so.

177. Are you aware that the embankments on the Blackwater at Caledon have given way?—I am not aware of that, I have not heard of it.

178. Then financially you do not think it practicable to lower Lough Neagh below summer level?—Financially I do not think it practicable.

179. Do you mean that it would involve compensation to the Ulster Canal?—It would involve first making a new lock at Carnroe; and, secondly, deepening the Blackwater for several miles. It would involve the deepening of the Upper Basin for several miles; it would involve dredging in the shallow places, and probably involve fishery compensations; it would involve another lock at the mouth of the Ulster Canal, and then all the frontagers would want compensation.

180. In your estimate of 65,000 £ for these works have you allowed anything for maintenance?—No, not for maintenance; not in the 65,000 £.

[The Witness withdrew.]

Mr. Lister.] I propose to be very short with regard to the other witnesses. I have only called the engineer. It is apparent

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from the cross-examination that so far as this side of the table goes it is purely a matter of clause. I will call one or two other engineers, and will ask them shortly

whether they concur in the evidence they have heard, and the Committee will ask such additional questions as they think proper.

Mr. WILLIAM J. O'NEILL, sworn; and Examined.

Mr. Cripps.

181. You are engineer to the Lough Neagh drainage district, are you not?—Yes.

182. And also to the Upper Bann navigation district?—I am.

183. And you have been acquainted with the Lower Bann for 30 years?—Yes.

184. I think you were present in the room whilst Mr. Gamble was giving his evidence?—Yes, I was.

185. May I ask you whether you agree generally with the evidence which Mr. Gamble gave?—Yes.

186. You have also large experience in land valuation, have you not, besides your engineering experience?—I have.

187. And do you consider that the extent of land now injured by floods amply justifies the proposed expenditure of about £5,000 L?—I do.

188. You assisted Mr. Gamble, did you not, in preparing the plans?—I did, generally, in getting out the details.

189. Is your opinion would the proposed plan carry out the object which Mr. Gamble stated?—Decidedly.

Cross-examined by Mr. Fitzgerald.

190. As I understand, the object is to keep the level of Lough Neagh as nearly as possible to summer level?—Yes.

191. And as soon as the water rises at Toom Weir above summer level, you propose to open the sluices?—Yes.

192. There are no sluices there now, I believe? No.

193. Is it not the case that September and October are the best fishing months for eel fry below the weir?—I believe so.

194. And that the time when eels are taken is in high flood?—Yes.

195. That is at the Toome eel fishery below Toome Weir?—Yes.

196. On the other hand, for net fishing in the lake the object is to keep the water as low as possible?—Yes.

Mr. Claude Baggalley.] I do not propose to ask anything further until I see the plans and estimates.

Chairman.] Perhaps I may tell you whilst you are on this question of plans that we do not propose to make this Committee a court of appeal on questions of engineering. With what view do you intend to ask for the plans?

Mr. Claude Baggalley.] For two or three reasons. One particular reason is to see what the nature of the works is in order to be able to ascertain whether our apprehen-

sions with regard to injuries to the fisheries are well founded; another is with regard to the engineering, which I need not go into in detail now; another is to see whether, in your opinion, the works are such that they should, before being sanctioned, be placed under the direct approval of some body, and not left to a body living at a distance purely as a commission from time to time. Then we shall ask you to decide absolutely that all the work shall be submitted to some sanction as I suggested to Mr. Gamble just now. Under the Bill as it stands, especially Clause 11, although certain plans may be submitted there is no obligation to execute any of the works in accordance with the plans.

Mr. Little.] They will be executed by the Commission.

Mr. Claude Baggalley.] The Commission may be all dead in a year, and there is no provision for continuation, or for a new Commission. And another thing is with regard to the estimates, we want to see them; we want to see how nearly, and in what way the estimates run up to £5,000 L, because we may have evidence to show the possibilities of very large claim for compensation in respect of injury to the fisheries. The fisheries are let on lease for 5,000 L a year; there may be a very large claim in respect of them. That may be a very important element for the Committee to consider before deciding upon this Bill. Also note there is to be a claim for compensation over and above that £5,000 L. And it may be a very serious question as to where that money is to come from, and how it is to be charged. Supposing this money had to be advanced from some source, and had to be charged either upon the county cess, or upon the persons specially benefited, it may be a very serious matter for the consideration of the Committee before they decide that point.

Chairman.] The reason I asked the question was this: I wished to guard against letting these witnesses go without cross-examination, under the impression that we were not, in point of fact, going into all the engineering questions which have been very carefully considered by engineers of great eminence, and which have never been submitted to us at all, and which, before being adopted, will have to be submitted in their final form to the council to be elected for the purpose of considering them. I may say that the Committee do not intend to set up their opinion upon questions of engineering.

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Mr. O'NEILL.

[Continued.]

Mr. *Claude Baggalley*.] I am not going to ask the Committee to act as a court of appeal upon the plans. I should not think of doing that, because this Bill differs from all ordinary private Bills in which there is to be a deposit of plans, and the promoters are tied down to a particular plan; but still, we are in this position before you, that we are fighting in the dark as to what we shall propose when we come to clauses, unless we know something of what the works are to be, and something of what the estimates are.

Mr. *Littler*.] I can tell you roughly. The estimates are something like 64,000 £, but they include 10 per cent. for contingencies; but you will remember the first witness mentioned that there is a margin of 6,400 £ for anything that turns up.

Mr. *Claude Baggalley*.] The plans are already made.

Chairman.] When the engineer brings his plans and his estimates to-morrow, you can discuss with the learned Counsel for the Bill how far you may go into the questions which you have stated. I only wish that you should not suppose, in arguing now, that you

are to re-open the whole question as to the propriety of the engineering proposals.

Mr. T. W. Russell.

197. (To the Witness.) You have had a longer experience of this river than Mr. Gamble?—I have been a longer time on it.

198. Do you remember the river before those navigation works were there?—I do not.

199. Do you concur with Mr. Gamble that the mere removal of the navigation work would not remedy the evils arising from floods?—Decidedly; that I am quite clear about.

200. With regard to keeping up the navigation in a modified form, do you know anything about the action of the Coleraine Harbour Commissioners?—I do not.

201. Do you know that they have made a channel to the sea at a great cost so as to complete the navigation?—Yes.

202. Do not you think that the proposal to keep up the navigation in this modified form, in view of the future and in view of the progress of Coleraine is very important?—Yes, I think so; certainly.

[The Witness withdrew.]

Mr. ROBERT MAXNING, sworn; and Examined.

Mr. *Littler*.

203. You are a member of the Institute of Civil Engineers?—I am.

204. And you practice both in London and in Dublin?—Yes.

205. And you are chief engineer to Her Majesty's Board of Works in Ireland?—I am.

206. In the year 1876 you were employed, were you not, to examine and report upon the state of the Bann river?—I am.

207. Subsequently, in 1883, you had a careful survey made, had you not, in order to propose measures for the relief of the lands in the Lough Neagh district?—Yes.

208. That report you presented to the Commissioners in March 1884?—Yes.

209. And you were subsequently examined before Lord Macock's Commission, and in 1886 and 1887 before the present Commission?—Yes.

210. You have been in the room during the examination of the previous witnesses; do you generally concur with what they have said?—I generally concur in Mr. Gamble's evidence; it is almost the same scheme that I proposed some years ago.

211. In fact the aim of any intelligent engineer would be to maintain a channel capable of discharging the water of the range draining into Lough Neagh?—Yes, and the drainage engineer would endeavour to keep the surface of Lough Neagh at the lowest level he could, and have a channel from Lough Neagh which would enable him to do that.

212. So far as you have formed an opinion do you think that the scheme before the Committee sufficiently provides for all reasonable objects?—

Mr. *Littler*—continued.

I have not seen the plans, but so far as I know the scheme, I think the plans go nearly to the limit to which it would be proper to incur expense in draining.

Chairman.

213. Have you considered the question of the effect of the proposed drainage scheme on the fisheries?—No, I do not know anything of the natural history of fish; but so far as I know the effect of the scheme now it is really practically merely to maintain works that were carried out thirty years ago; and therefore if the works did then do injury the works now will do injury.

214. Have you heard that the works which were executed then actually did injury to the fisheries or not?—I do not know. Not at all I think. On the contrary I believe the fishery at that time so far as I remember was sold by the Commissioners of Public Works for between 1,000 £ and 2,000 £, and the rent paid for these fisheries afterwards was I believe 1,000 £ or 2,000 £ year or more, I believe 2,000 £ a year.

Mr. T. W. Russell.] I am sorry to say that I have heard they parted with them for something like 500 £ to Mr. O'Neil.

Chairman.

215. You will be here to-morrow, and also Mr. O'Neil as well as Mr. Gamble in case any questions should be asked when the estimates are produced?—Yes.

[The Witness withdrew.]

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Mr. Littler.] The only question here is the question of this salmon fishery which we think is protected by the Bill; subject to anything that my learned friends have to say. I do not propose to call any further witness on the part of the Government.

Mr. Pope.] How can we be protected by the Bill unless we know what the Bill is going to do?

Mr. Littler.] Somebody has been informed while you have been out of the room, Mr. Pope.

Chairman.] Do you wish to address the Committee, Mr. Pope?

Mr. Pope.] I should very much prefer, Sir, to see those plans which are to be produced to-morrow before I address the Committee.

Chairman.] So far as the cross-examination of the earlier witnesses has gone it appears that the opposition is rather with the view to securing compensation in case of injury being done than against the general policy and principle of the Bill.

Mr. Pope.] It would certainly shorten my duties very materially if the Committee were prepared to say that we should receive compensation for any injury inflicted upon the fisheries by the execution of any works which might be agreed to by the Board ultimately.

Chairman.] I did not mean to say that; but what I meant to say was that the cross-examination up to the present time had rather pointed to objections to the Bill which might probably be met by clauses rather than an opposition to the preamble of the Bill; and I was therefore suggesting to you whether it might not be convenient to deal with the preamble first, and to reserve those objections till you come to proposed clauses.

Mr. Pope.] Of course I would rather be without the Bill; but if the Committee come to the conclusion that in the general interest it is desirable that there should be some such powers, then all that I am anxious to do is to secure that those powers shall not result in individual loss to my clients.

Chairman.] So I understood. Of course the Committee would be prepared to hear you fully in support of any clauses that you may bring up with a view to carry into effect that desire on your part; but the question at present is whether we shall go on calling witnesses to discuss the general policy of the Bill, or whether we should reserve the discussion for the clauses.

Mr. Pope.] My position, Sir, is this. Of course as regards opposition to the preamble, I should object to any Bill if it were not accompanied by fair conditions towards myself; and therefore I cannot assent to the passing of the preamble, unless I know whether the Committee would be disposed to give me the compensation which I think I ought to have. If the Bill were so accompanied by such compensation, I do not know

that I should persevere in any opposition to the preamble; and if you think it a convenient course to adjourn your decision upon the preamble, and to take the discussion of the terms upon which I should be willing to assent to it, I should be very willing to put my witnesses into the box to say exactly what is our case, supposing that you pass the Bill as it stands.

Mr. Littler.] I cannot say that I am quite prepared to accept my learned friend's position. I pointed out when my learned friend was busy elsewhere that the whole of the allegations in all these petitions are simply with regard to the question of compensation; there is not a single allegation that our scheme is bad.

Mr. Pope.] There is no scheme.

Mr. Littler.] On the contrary there is a general scheme such as is always laid before Parliament for this particular class of Bills. There is never for this class of Bills an estimate or any deposit. It is just one of that class of Bills in which you are always left at large, and we have adopted the usual course for such a class of Bill. We simply state the object in view, what is proposed to be done, without any deposited plan or estimate for this class of bill. We have done everything that the Parliamentary Standing Orders require, and therefore I say that as my learned friend does not allege that it would be a bad thing to have drainage for the Bann (because that is the only preamble question); and as to the terms upon which it is to be carried out, my learned friend is perfectly entitled, as I have already stated, both under his petition and according to the ordinary practice of the House, to say what condition he asks to have imposed.

Chairman.] I understand the situation, Mr. Pope, to be this: There have been, of course, previous drainage schemes alone, and losses have been sustained, and those losses have been more or less compensated. There have been, as we all know, supplementary estimates within the last ten years, at all events, on more than one occasion, submitted to Parliament for the purpose of providing money for persons who have suffered under drainage schemes. I quite understand that it is a fair contention on your part to say, if you can sustain it, that the clauses of this Bill are not so framed as to admit of your clients obtaining such remedies; or else you may say, if you like, that those remedies are not sufficient for the purpose. But I do not see that you can oppose the preamble of this Bill, which is one of general policy, simply because you say, "I will not assent to the advisability of the drainage of the Bann district at all until I know whether the provision that you will make for my compensation will be satisfactory or not." I do not think that is quite logical; and you would find it difficult, I think, to sustain that before this Committee.

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Mr. Pope.] It is the common form in which opposition to a preamble, which is frequently an opposition upon a condition, ordinarily comes before a Committee. We say, "Do not pass this Bill first until they satisfy you as to what they are going to do," which we have never heard until this moment, and do not know even now. Then, "Do not pass it unless you can secure the means of compensation for interests which are injured." It is clearly a question, for instance, of preamble that I should deal with the very question which you have suggested, namely, that if there be injury there is no fund out of which the compensation can come; and if you pass this Bill with compensation in it, unless it is accompanied by something which will be equivalent to a supplementary estimate, there might be no fund out of which the compensation could come. That may be; it will depend upon what the works are going to be which will be executed. It may be that the works which will be executed will not exhaust the whole of the fund, but that there will be a reserve to meet such contingencies as you may think it just to put upon the promoters. I confess that I do not see how I can withdraw from objecting to the Bill, although, as you see very plainly, my objection is not so much the principle of the Barn Drainage as to the Barn Drainage without conditions.

Mr. T. W. Russell.] Is not your position this: that in view of a problematical danger to your clients (because it is only problematical at the present time, at all events) you stop in to stop the passing of the preamble of this Bill having a public object?

Mr. Pope.] If you will forgive me, Sir, it is more than problematical. It is not as if you were in a position to say that the works which may be ultimately carried out may only be a problematical injury; but if you pass this preamble, there may be a certainty of injury.

Mr. T. W. Russell.] The evidence which we have had here to-day is, that they are going to improve your position.

Mr. Pope.] But how can you have any evidence as to anything, the plans of which are not before you?

Mr. T. W. Russell.] That is the evidence of Mr. Gamble.

Mr. Pope.] We do not know what the plan is.

Mr. Lister.] It has been as fully described as any engineer I ever came across could have described it.

Mr. T. W. Russell.] You see, Mr. Pope, you have not heard Mr. Gamble's evidence.

Mr. Pope.] I have not, and I am not dealing with it; but I am dealing with the Bill; and although I say that it may ultimately be that the scheme carried out under the Bill may be that which is shadowed out in Mr. Gamble's evidence, I do not know it, nor is there anything in this Bill which

would bind them in any way to adopt Mr. Gamble's scheme.

Chairman.] But I think that the contention of the Counsel for the Bill is this: He says, that this Bill differs from other Bills that have to come before Committees of Parliament, because in those cases there are deposited plans, and that the promoters would be bound by the plans which they deposited; but that in this case there are no such deposited plans, because the Commission is to be empowered to present in detail plans to the Conservancy Board of the future, and they are to decide whether those plans are good and proper plans; and therefore we cannot be expected to go into the engineering questions before this Committee upon plans which are not before us.

Mr. T. W. Russell.] Then if you delay the preamble until the Conservancy Board decides upon the plans, we should not get the Bill passed at all this Session.

Mr. Pope.] I do not ask you to do anything of the kind. I simply ask you that the plans which have been suggested as likely to be adopted should be put before us; that is all. I do not ask the Committee to postpone the preamble until the Conservancy Board have adopted it. If you like to pass a Bill which really hands over to the Conservancy Board the powers of Parliament in deciding upon plans—

Chairman.] That is not the point, Mr. Pope. The point is, I think, whether we shall more conveniently discuss these plans which the engineers have undertaken to bring up to-morrow, upon clauses as to compensation, or whether we shall discuss them upon the preamble of the Bill.

Mr. Pope.] Quite so. I would suggest that the most convenient course, seeing that the engineers have promised to bring up these plans to-morrow, would be to adjourn until to-morrow; and in the meantime we will send clauses to the other side upon the supposition of those plans.

Chairman.] That is a waste of half a day.

Mr. Pope.] If that does not commend itself to the Committee I will not press it.

Mr. Lister.] I am told that the plans are in Great George-street.

Chairman.] We had better send for them; and there are some witnesses who have been summoned who can be examined.

Mr. T. W. Russell.] Are we to postpone the preamble and go on with the evidence?

Mr. Lister.] Whenever you do not take land compulsorily in this class of Bills you do not deposit plans or estimates. That has been the case with the four Irish Bills that have been before the House; I suppose this is probably the only one that comes to anything. Where land is sought to be taken compulsorily plans and estimates are deposited; but here there is no land to be taken compulsorily, and gentlemen can please themselves, and say, "We will not consent

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consent to your taking the land"; they are their own protectors.

Mr. Pope.] I emphatically dissent from my learned friend's narrow exposition of the necessity for depositing plans. Where any interest can be injuriously affected, that is where the whole thing depends upon an agreement between the parties interested, I can understand there being no necessity for plans; but I presume that I am as much entitled to object as an owner of land; in fact I am the owner of the River Bann.

Chairman.] We have sent for the plans at once. Then there are some witnesses who have been summoned by the Committee, we had better have them.

Mr. Pope.] I have no objection to the course proposed to be taken by the Committee.

Mr. Lifford.] Then I understand, Sir, you pass the preamble and now proceed to examine the witnesses who have been summoned by the Committee.

Colonel Sir WILLIAM F. L. CONYNHAM, K.C.B., sworn; and Examined.

Chairman.] You have been asked to attend at the suggestion of my honourable friend the Member for South Tyrone, and he will ask you some questions on the subject now before the Committee.

Mr. T. W. Russell.

216. You are Chairman of the Magherafelt Board of Guardians, I think?—I am.

217. Have the guardians had any meeting about this Bill?—Yes, on this day week they met, and they had the Bill under consideration. I was not present at the discussion; I was unable to be there.

218. Do you know what decision they arrived at?—They arrived at a unanimous decision of opposition to the Bill and disapproval of it altogether.

219. That resolution was forwarded to Members of Parliament, was it not?—I understand so.

220. Are you aware that it was accompanied by no reasons for their action?—I am.

221. Will you be good enough to tell me then what their reasons were?—I was not present at the discussion, but I can tell you why they objected to the Bill. The reasons for passing that resolution I know from a previous conversation which I had at a meeting the week before. They object to it because the plan is not submitted in the Bill of what is to be done. That was one reason for objection. They objected to it because they did not consider that the higher lands ought to be taxed for the improvement of lands affected by the Bann flooding.

222. Is that all?—No; they objected to it on account of the representation on the Conservancy Board, holding that it was not fair that the constitution of the board, enabled three-fourths of the members who reside upon the special lands to overrule the one-fourth who represent the remainder of the catchment area. The special lands only paying 8,000 £, and the catchment area 37,000 £. Another objection was that the catchment area was not defined. That appears to have been a mistake, as this map which is before us appears to define the catchment area. They also objected on account of the charge for maintenance, because it is not shown in the Bill upon what basis that calculation is made. The Bill says that the cost will be about one penny in the £. They objected not knowing what was the basis of the calculation. I was advised that if

Mr. T. W. Russell—continued.

the Bill continued, it would be better to insert that the taxation should not exceed one penny in the £. They also objected to the retaining of the weirs and locks for the purposes of the navigation, the navigation having proved entirely useless, and being likely to remain useless. They objected, as I said before, to the scheme which is to be carried out not being before them. In Section 11 of the Bill, powers seem to be given to the Conservancy Board to carry out other works thereafter provided, and also within the catchment area to carry out very considerable works. I do not see where the funds are to come from to carry out those works, as it seems that the whole 65,000 £ will be required to carry out the works upon the Lower Bann alone. With regard to the question of compensation, what we have heard to-day was also a ground of objection, namely, that where the funds are to come from in the cases of compensation is not provided for always supposing that the 65,000 £ is required to carry out the works. Attention was called to Section 35, not only at that meeting but at others; it gives to the Lord Lieutenant the power of taking away bridges and assessing the cost of them upon the county cess, if it is found that they were originally improperly constructed or subsequently altered, so as to be an impediment to the natural discharge of the water. I think it will be admitted that no bridge can be constructed which does not to a certain extent impede the discharge of the water of the stream. That would involve the alteration of almost all the bridges upon the rivers running into Lough Neagh from the catchment area of the greater part of that district.

Chairman.

223. I do not quite follow that last objection?—It might involve the removal of all the bridges, and its being said that they were originally improperly erected, would throw the whole cost of rebuilding them upon the county cess. So far as the drainage of the greater part of this catchment area is concerned (I am speaking of the Unions of Cookstown and Magherafelt), it was likewise discussed in Cookstown last Saturday, and they adopted the resolution of the Magherafelt board of guardians, with the addendum that they objected to it because it is in no way provided for the improvement of the rivers running into the lake which were subject to flooding.

224. Tribesmen

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[Continued.]

Mr. T. W. Russell.

224. Tributaries?—Tributaries. Those lands which lie considerably above the lake are in no way affected by the drainage of the Bann; we are not backed by the lake to any great extent, nor can be; we lie so much higher above it.

225. You are on the uplands?—Yes.

226. May I put it in this way. That the principal objection of the Magherafelt board of guardians is to the taxation of the catchment area?—Yes; I think that would be a fair way to put it.

227. I suppose that that objection governs everything else, and that that objection once established, of course any scheme could have been taken to pieces?—Decidedly.

228. But the real objection that the Magherafelt board of guardians felt is to the taxation of the catchment area?—Yes; and that is the objection of Cookstown too.

229. But Cookstown objected because there was not something more done?—Because the other rivers running into Lough Neagh would not be improved.

230. Do you concur with those objections yourself personally?—I do.

231. Do you think that it is an unfair thing for the uplands to be taxed in a modified way for this object?—If it is true, as has been represented to-day, that only 29,000 acres are to be benefited by this drainage of the Bann I think the 29,000 acres might pay for it. We derive no benefit. We may do them a little harm by sending the water down.

232. Is it not a fact that the uplands contribute the water which floods the lowland?—Considerably.

233. And do you not think as a matter of fair play that the area which contributes the water that floods the lowlands ought to bear some slight share in the expense of draining it away?—If the Act would limit the expenditure.

234. You consider it a fair proposition in principle that the uplands contributing the water which floods the lowlands should bear a fair share of the expense of drainage?—I think in principle that if a man does harm he ought to pay for it.

235. Then your objection would be, at all events, modified, if not altogether removed, if the taxation of the catchment area was limited to 1*d.* in the *£*.?—I do not say that that was the opinion; they objected to it upon the principle that they ought not to be taxed at all.

236. But you do not concur in that objection?—Not entirely.

237. Now with regard to the constitution of the Conservancy Board, how do you make it out that three-fourths of the members are to belong to the specially benefited area, and only one-fourth to belong to the catchment area?—I make it out from the 9th clause of the Bill, which provides that the number to be nominated by the boards of guardians and town commissioners shall be such as the Commission think proper, and such nominated members taken together shall constitute one-fourth, and the remainder of the board shall be constituted by the members representing the occupiers of land in the special districts, and the member appointed by the Lord Lieutenant.

238. You are aware that the special area is to 0.125.

Mr. T. W. Russell—continued.

be specially rated?—Yes; to the extent of 8,000*£*.

239. Do you see any harm in keeping up the navigation works in the way Mr. Gamble has described?—I see no harm in doing it provided it does not interfere with the better drainage of the river; but if the drainage of the river would be improved by the removal of the navigation works, I think decidedly they should take them away; I do not see what is the use of leaving them myself, for I am quite satisfied that there will never be any navigation there; you might as well talk of navigating your hat; in the first place the bridge at Coleraine will not admit of it; there is no swing arch in it.

Chairman.

240. Do you mean that no vessels can come up throughout that bridge?—They cannot do it; the bridge has no swing arch in it; in a high tide you could not row a boat under the arch.

241. I thought we heard that the Coleraine people had objected to the navigation being taken away altogether, because they said that although there might not be much use for it at present, they hoped there would be use for it in the future as their town advanced?—You cannot get anything under the bridge at high tide; I am sure there is not three feet between the arches and the water at high tide; at low tide nothing could go under it but a mere boat; I am quite satisfied that an ordinary lighter could not get under, and it has always been so.

Mr. T. W. Russell.

242. Then the Committee may take it, at all events, that the main objection of your board is to the taxing of the catchment area?—And generally what they seem to think the neecessities of the scheme, unless the navigation is done away with, and the river made a pure drain from Lough Neagh.

243. You have heard, however, the engineer's opinion to-day, that the mere removal of these navigation works would not accomplish the object?—I heard Mr. Gamble, I think it was, say that it would make a very trifling difference in the outflow of the water; and there is another part of it, I think, that attention ought to be called to, and that is the cost of the maintenance of the works. That seems to me to me to be an enormous sum of money. It states in the preamble of the Bill that the sum for the maintenance will be 600*£*., and the charge for capital would raise that to a sum of 1,020*£*.. The maintenance charge upon the catchment area would be 3,383*£*.. Adding for capital expenditure 1,666*£*., the interest of the money and the maintenance works would now amount to 5,049*£*.. The present cost of it, including the navigation and the drainage, is about 3,000*£*., I am told, and I believe I am right in saying that it is not more than 3,000*£*.. That would add very largely to the expense of the maintenance, without in my judgment, any commensurate benefit. That is an idea of my own; I do not say that that is correct.

Mr. Morrison.

244. Have you calculated how much one penny in the *£*. would produce on the whole area?—I did

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[Continued.]

Mr. Morrison—continued.

—I did not know what the area was until I saw that map over the chimney-piece. That was one of the objections to the Bill.

Mr. JOHN GEORGE GAMBLE, re-called.

Chairman.

246. As I understand, the way in which the Bill is drawn it will be the business of the Commission, when constituted, to define, in the first place, the catchment area of the Bann; is not that so?—Yes; that is the geographical catchment area, but, for example, below Coleraine town there may be portions of that which cannot possibly be in any way chargeable by the Bill.

Colonel Sir WILLIAM CONINGHAM, re-called.

[Witness.] THAT, again, is to be decided. That still more intensified the objection we have that there is nothing definite in the Bill to say what is to be paid, or who is to pay it; putting it in a short way.

Chairman.

248. I suppose there is no doubt, as we heard it stated early to-day, that at present the lands lying along the river do suffer very much for want of proper drainage?—I believe that that is the case, but I cannot say from my own knowledge. I live some distance from the Bann, and I do not know it very well.

Mr. Phillips.

249. Is it a poor district, as compared with other parts of Ireland?—No, certainly not.

250. Are the tenants small holders, or do they hold a considerable acreage?—They are not small holders, taking it all over the catchment area; but what district do you refer to?

251. All over the catchment area, first of all?—There are in the area, which is comprised within those red lines, some of the most comfortable farmers in the north of Ireland.

252. Upon the special area, those 29,000 acres which would be specially benefited by the drainage, are the tenants poor, or well-to-do?—I should think they are well-to-do, but I am not very specially acquainted with that part of the river.

253. But taking it as a whole, the catchment area, is it not, one of the poorest districts in Ireland?—Certainly not.

254. Are you sufficiently acquainted with the special area, these 29,000 acres that are going to be benefited, to tell me what the average rental value of those lands would be?—No; I do not know it.

255. Are the other gentlemen who moved and seconded this resolution at your board of guardians, gentlemen who would be more likely to have knowledge on that point than you would?—I think one of them would.

256. Could you give me his name and address?—Mr. Thomas Meek. I do not know that Mr. Meek knows the rental value of the land

Chairman.

245. But I do not understand that the line marked there is a final one?—It is headed "The Catchment Area of the Bann;" I merely take it from what is there.

Chairman—continued.

They would be naturally omitted by the Royal Commission when they define the catchment area. That is the geographical catchment area.

247. But that is not the catchment area as it will be submitted by the Commission to the Conservancy Board?—No, not necessarily.

Mr. Phillips—continued.

very intimately, but he knows it a great deal better than I do.

257. In your view, if these navigation works were done away with entirely, there would be a saving of something like 1,000 l. a year, which might be devoted to some other objects?—No doubt.

258. The district would benefited to the extent of 1,000 l. a year?—Yes; there would be a saving from doing away with the maintenance of these works.

Mr. Cos.

259. Does your board of guardians approve of the Bill generally; do they wish the Bann to be drained?—They disapprove of it unanimously in every respect.

260. They do not want the Bann to be drained at all?—They say that it does not benefit them in the least. There is hardly a man on the board who is benefited by it; it does not affect any of them on the board at all. There are one or two members who live nearer to the Bann, and I was told (I cannot answer for myself because I was not present) that they were the strongest opponents of the Bill.

261. How near to the towns of Cookstown and Draperstown does your Magherafelt board extend?—Cookstown is in the County Tyrone; it is not in the Magherafelt board; it is in a different union. Draperstown is in the union of Magherafelt.

262. Does it go as far as Maghera?—Yes, Maghera is in the union, and so are Draperstown, Swatragh, Moneymore, Magherafelt, and Ballyronan.

Mr. T. W. Russell.

263. All the evidence which you have given here to-day has been on behalf of the catchment area?—It has.

264. The people whom you represent belong to the catchment area, and have nothing to do with the specially benefited area?—No, I do not think any of them have.

265. Does Mr. Meek, whose name you have given,

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[Continued.]

Mr. T. W. Russell—continued.

given, lies in the benefited area?—No, he does not.

Mr. Coddington.

266. Whereabouts on the map is the district that you represent?—Just above Lough Neagh; it runs down to the left. This is the boundary between Tyrone and Derry, and the union goes down to there and up to here (describing the plan).

Chairman.

267. Practically neither of those districts is on the part of the river where the flooding takes place and the drainage is done?—No.

Cross-examined by Mr. Little.

268. At the particular meeting when this Bill was discussed you were not present, but have you any idea how many guardians there were there?—It was a special meeting of the board.

269. I am told that out of 54 guardians there were five present?—There were far more than that I know.

270. You told us that you were not there?—I was not there, but I was told that there were a great many present; I can count them.

271. There are 54 guardians I think, are there not?—Yes; including *ex-officio* and elected guardians there are about that number.

272. I am told that you were named as chairman of the special meeting, but that it was not convenient for you to attend?—I could not attend on the day of the meeting.

273. One of your complaints, as I gather, and one of the earliest ones, was as to that clause giving power to the Commissioners to execute general drainage works; that was one of the earliest complaints that you made out of your memorandum book, was it not?—I do not know what you refer to particularly.

274. I refer to Section 11?—We do not object to the power that is given there, but we want to know where the money is to come from to do it.

Mr. Little—continued.

275. Do you happen to know that that is one of the usual powers which is given for this purpose, that it is merely a subsidiary power for the purpose of enabling the Commissioners to carry out any works that may be necessary?—I presume that it must be inserted for that purpose; but we want to know where the money is to come from.

276. Had you any information before you which showed that it was going to cost an extraordinary sum of money?—None whatever. We only looked at the Bill which said that the money was to be expended, but we did not know where the money was to come from.

277. So far as you know was any gentleman present at the meeting who had either read this Blue Book or attended any of the meetings of the Commission which took the evidence?—I do not know of any.

278. I should rather assume that that there was not?—I was not at home.

Mr. Cox.

279. You said that this was a special meeting specially convened for the purpose?—Yes.

Mr. Phillips.

280. Something was said about the meeting of the guardians being a small one; I suppose the whole 54 *ex-officio* guardians do not attend very regularly do they?—Hardly ever. I seldom or never see the entire number there. On one particular day when they are striking the rates there is the largest representation that we ever have.

281. This meeting of the board of guardians so far as you know was an average sized meeting?—Yes, I believe so; but I cannot say of my own knowledge.

Mr. T. W. Russell.

282. Are you an *ex-officio* guardian yourself?—I am an *ex-officio* guardian of Magherafelt, and an elected guardian of Cookstown.

[The Witness withdrew.]

Mr. MARCUS GAGE, SWORN; and Examined.

Mr. Pinkerton.

283. You are a resident in the immediate neighbourhood of the Bann?—I am.

284. Do you know the Magherafelt Union?—I do.

285. What proportion of the land in the Magherafelt Union would be benefited by this drainage scheme?—There would be a large portion along by the lower lake.

286. Would one-tenth of it be benefited?—I should say somewhere about that.

287. Consequently nine-tenths of the people in that district would be opposed to the scheme?—I do not know; I would not say that. There are a great many in the catchment area who are opposed to it; they do not object to the drainage, but they object to paying their share of the cost.

288. What would be your idea with regard to the alterations necessary in the Bann?—I think that alterations which would result in a great

Mr. Pinkerton—continued.

deal of good could be very easily done, not costing nearly so much money as it is proposed in the Bill to expend.

289. Would the free grant of the Government be equal to removing the obstructions at the present time interfering with the flow of the river?—I think the free grant of the Government would make a very material difference in it, and improve it very much; I think it would more than do it.

290. Would you be in favour of any embankment scheme?—Certainly not.

291. Will you give your reasons for objecting to it?—The chief floods that the land suffers from along the Bann are from the backwaters of the Agivry, and several other small tributary rivers, the Bann coming down in such force that it drives the water of the small rivers back.

292. Are the banks in those flooded districts

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alluvial?—

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MR. GAGE.

[Continued.]

Mr. Pinkerton—continued.

alluvial?—I should call it bog; it is better known as bog in Ireland.

293. With regard to the Government proposal, would you prefer that the new board should have power to originate, and not that it should be there simply for the purpose of carrying out the decrees of the Commission?—Certainly. I may tell you that I remember the Bann before it was interfered with at all, and I also remember the time when it was done, and the way in which it was done. The actual work, so far as the building and the cutting was concerned, was very well done, but it was very expensively done, and there were some places where, when the river rose and came into the cutting, they pumped out the water once or twice, and then they got tired of doing it and took a little more out of a softer place and left the hard place remaining. I could point out some places where the remains of the stanks are in the river still.

294. Are you in favour of the renewal of the navigation works from the river?—Yes; but there seems to be a wish to keep some of the navigation works. I believe that if there was a couple or three feet taken off at the Cutts, the navigation would have very little harm done to it. I do not think you need touch Carruce at all; you might take a little off the weir, but you need not touch the locks there or the locks at Portna.

295. When the flood-gates are open at Cutts, is the effect perceptible where you live?—They are never opened.

296. On some occasions I believe they are?—I never knew them to be opened except for a boat to go through, and you would not know it then; but I know myself at the Cutts on a Monday morning the gates are not put down till six o'clock, and when there has been any flood at all in the Agivey water you would know it by seven o'clock, the water would be flowing an inch higher at Carruce; I used to know it when we were fishing.

297. Do you think it is possible to have a thorough drainage scheme, and still to retain the navigation works in the river?—I believe not. There would still be navigation at certain times, but not in dry weather, because even at present in very dry weather there is not navigation. The only large vessel that I know that goes down is Colonel Bruce's steam yacht, and she draws only five feet, and she scampes along the bottom sometimes too.

298. If I recollect right, you were present at a meeting of the Ballymoney Board of Guardians when a resolution was passed approving of the drainage, but condemning the mode of carrying it out?—Yes.

299. Do you remember what the resolution was?—That they would do away with the navigation, and make it all drainage, because they could not combine navigation and drainage.

Mr. Cox.

300. Do you speak of any particular part of the union in giving your evidence; do you speak of the Ballymoney Union?—No, I speak of the whole river. I know the whole river perfectly.

Mr. O'Neill.

301. Perhaps you can answer the question which Mr. Phillips asked about the number of the farmers in the specially benefited districts; do you know the farmers on both sides of the Bann?—Yes, I do.

302. Are they well to do upon the whole?—Yes, they are; it is certainly not the poorest part of Ireland by any means. On the Derry side they are mostly tenants under the companies; under the Mercers, the Ironmongers, and the Salters.

303. Is there much difference between their condition in the specially benefited land, and the tenants in the outchment area outside the specially benefited land?—There is a great deal of difference.

304. How?—Upon the 13th of last August I saw along the river the men in the middle trying to save their hay, a great deal going down the Bann which they did not save at all. It was rather a benefit for my side, because some of the hay came over to me. I generally see the meadows along the river.

305. You said just now that some people wished for the navigation to be kept up, who were you alluding to?—The Coleraine Commissioners.

306. Not the people generally along the banks?—No, they are left water enough for small boats.

Mr. T. W. Russell.

307. Do you remember the Bann before the navigation works commenced?—I do.

308. Did any difficulty exist then?—Yes.

309. Before any of the works came?—Yes.

310. The drainage difficulty was there before the works came?—Yes.

311. Do you say that the drainage difficulty would be removed if the works were swept away?—I think so.

312. How do you think it would be removed since it was there before the drainage works came?—The reason is that the water now comes down all at once; formerly it came down, and we acted as a reservoir, and the works they put there acted as a sort of top dressing to it; it did not come down with a rush; it comes down with a rush, and stays a week or a fortnight, and perhaps more.

313. Are you in favour of doing away with the navigation?—It could be done in either way.

314. You heard Mr. Gamble say that he does not propose to do away with the navigation works?—Yes.

315. And he does not propose to do away with the navigation?—If you leave the weirs and locks you can always have navigation, but if you take them away you will have a great fall, and you must do something with the weirs. I hear you propose to sluice. I was present with Mr. Gamble when he proposed to sluice the cuts, and also to open the locks. If that were done now it would do all intents and purposes do what you want.

316. With regard to the farmers in the specially benefited area, what is the size of their farms upon the average. You know when you talk

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Mr. GAGE.

[Continued.]

Mr. T. W. Russell—continued.

talk of a farmer in England he is generally a man with several hundred acres; what is the size of the farms in the specially benefited area; would they exceed 30 acres a farm?—Somewhere about that.

317. You would call that a large farm in Ireland?—Yes.

318. You would hardly think it a large farm in the eyes of an Englishman?—No, certainly not. There are some rather under that.

319. They are generally 20-acre holdings?—You may say 25.

320. Consequently many of the acres all along there are under flood?—Yes.

321. The Committee can form their opinion as to the kind of men they are. Is it your opinion that the real objection to this Bill is in the catchment area?—Yes.

322. And those in the specially benefited area are in favour of it?—Yes.

323. Is it not the penny in the £. in the catchment area which constitutes the real difficulty of this position?—I am not connected with the catchment area, but I rather suspect it is so.

324. And their objection to taxation?—Yes.

325. It is that which really governs this opposition?—Yes.

326. And there are clever fellows there who will find a hundred holes in any scheme that could be proposed?—Yes, exactly.

Chairman.

327. There is no doubt in your mind that there does exist a pressing necessity at present for the improved drainage of these lands?—Yes, and we have paid to have them drained, and we have also paid for the navigation, and we therefore think we ought to get some relief. That is the general opinion of the men all along the river.

Mr. T. W. Russell.

328. Do you not think seeing that the catchment area contributes the water flooding the lower land, it is only fair that those living in the catchment area should help to clear it away?—I do not take the part of the people in the catchment area; they are perfectly well able to pay for it, and I should make them do so.

Mr. Phillips.

329. Do you know the 29,000 acres specially benefited?—Yes, that is a great deal above the lock navigation, the lower part which would be principally benefited would be from Toome Weir down.

330. Could you tell me what the average rental per acre would be over that 29 acres specially benefited?—Before the Land Law Act came into force it would be about 17. an acre, and now it is about 16 s. an acre, 16 s. to 18 s.

331. In that part would the rent be pretty regularly paid?—Yes, there are not many evictions there.

332. Are you enough of a land agent to give an estimate supposing that the drainage scheme was a success in carrying off the water from the low-lying land, what additional value would be given to the land?—The land is pretty good in some parts; along the low part the Bann comes

Mr. Phillips—continued.

up more now; when the Bann comes up they very often lose a crop, and that is what there is so much annoyance about.

333. Supposing that this land is worth about 16 s. or 18 s. an acre, which people pay now, what do you suppose people would pay for the same land if it was not liable to be flooded?—I should say from 25 s. to 30 s. at the least.

334. It would rise from 16 s. or 18 s. to 25 s. or 30 s.?—Yes.

Mr. T. W. Russell.

335. Do you mean to tell the Committee that the reductions made by the Land Court in the county of Derry, along the banks of the Bann have only been 10 per cent.?—They have been more.

336. You said they had been reduced from 1 l. an acre to 18 s.?—That is not poor land; I am talking principally of good land, the alluvial land. There is a lot of bog land that is not so valuable.

337. The actual reduction has not been over 10 per cent.?—A great deal more.

338. What has it been?—Twenty to 25 per cent.

339. The rent was 1 l. an acre before that?—Somewhere about 1 l. an acre.

Mr. Fickerton.

340. I suppose the majority of the people have fair rents fixed along there?—Yes, and many do not go into court at all.

341. If the land was improved who would derive benefit?—The tenants would.

342. A tenant who has a 15 years' term would have to contribute?—Yes, he would have to contribute.

343. If the tenant is contributory he would get credit for the improvement?—That I cannot say.

Mr. T. W. Russell.

344. The landlord cannot benefit by the drainage at all. The tenant must get whatever advantage arises?—Yes.

Mr. Fickerton.

345. Is it fair that a tenant occupying the cold clay land within the catchment area should be taxed in order to benefit the rich alluvial land along the Bann?—I do not say they would be taxed for it, a special part of the Bill provides for that.

346. And the land in the catchment area pays rent?—They pay merely for the land, what they send down there tends to flood the alluvial soils.

347. The lands along the Bann have been valued as flooded land?—Yes.

348. A lower rent has been fixed by the Land Commission on account of their being flooded?—Yes.

349. Do you think it fair that a man occupying the cold barren land within the catchment area should be taxed in order that these rich alluvial lands should be permanently benefited?—No, I do not, and the Bill does not provide for it.

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350. A man

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Mr. GAGE.

[Continued.]

Mr. Cox.

350. A man living up on the mountains will have to pay?—Not for the actual improved lands.

Mr. Fisher.

351. Would you be in favour of the Bill being so amended as that the contributing lands should make up whatever is necessary beyond the free grant to effect this much desired improvement?—The free grant would do all that is required.

352. You prefer that no taxation should be levied off these people?—Yes; we are very well taxed already. We have paid for the drainage, and we should now have some relief.

Mr. Morrison.

353. Are you aware of the amount which these flooded lands will have to pay under the Bill?—It has not been settled yet.

354. It is 8,000 l. a year. Do you know what the area of the flooded land is; it is 30,000 acres, is it not?—That includes the upper and lower part.

355. Have you calculated how much per acre it would be?—There has been a great deal of money paid for it already. The first drainage works they had dealt with the water above instead of below, and then when the money ran short they did not finish the lower part; if you clear out from the lower part the mud and drain it, it will to all intents and purposes relieve the land, and 20,000 l. would do the most of it.

Chairman.

356. I gather from your evidence, that the way the case stands is this: that there is great necessity for the improved drainage, in order to prevent the lands lying along the Bann being flooded?—Yes.

357. It is plain that those lands would not

Chairman—continued.

support the whole expense of the improved drainage?—No.

358. Therefore payment must come from some other quarter?—Yes.

359. You said you preferred that the whole payment should come from the Government?—The Government propose to give 20,000 l.

360. And you think that that, at all events, should be spent first?—It would clear from Toome Bridge down to the Cotts, which would make a considerable difference in having down floods.

361. Assuming that the Government are not prepared to meet the whole expense of the drainage improvement, whatever it is, you hold that the uplands who send down the water to the people below, though not themselves directly benefited are fairly chargeable with some part of the expense?—Yes.

Mr. Cox.

362. Look at the map; you see that part to the left of the river, according to your knowledge, is not that very mountainous, cold country?—It is, very much so.

363. Is it fair that the people living on these mountains should pay?—The drainage mostly goes into Moyola, and it runs into Lough Neagh, and that would not be interfered with at all.

364. But they pay for it all the same?—That is the old catchment area; there will be a new catchment area.

Mr. Lister.

365. Were you aware that the special drainage districts will pay, in addition to paying their share of what the catchment area pays?—Yes.

366. You knew that?—Yes.

[The Witness withdrew.]

Mr. WILLIAM ECCLES, sworn; and Examined.

Mr. T. W. Russell.

367. You reside at Coleraine?—Yes.

368. And you are clerk to the Coleraine Town Commissioners?—Yes; I am clerk to the Coleraine Town Commissioners and secretary to the Harbour Commissioners.

369. Have both those bodies considered this Bill?—They have.

370. With what result?—They have petitioned against the Bill being passed. The petition was forwarded to Members on Tuesday; I have a copy of the petition, but it has not been presented yet.

371. Am I right in saying that the petitioners object to the Bill on two grounds; first because of the taxation of the catchment area; and secondly, because it proposes to abolish the navigation?—They were shortly the chief grounds.

372. Are those the grounds upon which the petition was framed?—Chiefly.

373. Were there any others?—They refer also to the constitution of the board.

374. Your board is in favour of maintaining the navigation works?—Yes.

Mr. T. W. Russell—continued.

375. Are you aware that the annual receipts from the navigation works average 70 l. a year?—So I understand.

376. What has been the cost?—The nominal cost has been 1,100 l.

377. What do you mean by nominal cost?—One of the navigation trustees, Captain Green, gave evidence in 1882, before Lord Monck's Commission, and that evidence, I think, has been in no way contradicted since that, nominally, the navigation trustees were only required to do large drainage works.

378. Your contention is this, that the 1,100 l. spent every year has not been all spent upon the maintenance of the navigation?—Yes; it has been spent almost entirely on drainage.

379. Do you know what the annual expenses of the lock-keepers are?—I do not, but I should think very small; they discharge other duties, such as water bailiffs to the conservators for the fisheries, and their salary as lock-keepers is a very moderate sum.

380. That sum of 1,100 l. then is improperly charged against the navigation works?—From the

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Mr. ECCLES.

[Continued.]

Mr. T. W. Russell—continued.

the accident of the trustees being called navigation trustees to distinguish them from the drainage trustees upon other parts of the river, that money has come in the general eyes of the public, to be looked at as navigation outlay, whereas it is really not so; that is to say, so far as I am aware, no works for drainage have been executed on that part of the river between Lough Neagh and the locks at Coleraine by the drainage trustees proper, except one small work.

381. The honourable Member for Lismar-shire referred to sweeping away the navigation works, and saving 1,630 l. to the locality a year; supposing they were swept away, would that be saved?—I should think, perhaps, 700 l. would be saved.

382. That is the maintenance of the navigation works and weirs?—Yes.

383. The lock-keepers, and the cost of them?—Yes, deducting 70 l. with regard to the actual expenses for the navigation proper.

384. You heard Mr. Gaunle's evidence regarding the navigation; do you concur with it?—I do, generally.

385. Is the Board anxious that the navigation should be kept up?—Yes.

386. With what view, when it is palpably a sham upon the face of it?—We should not wish the navigation kept up if it was detrimental to the drainage, but whatever part the engineers say is requisite for the drainage channel, that channel we should be prepared to take as the navigation channel. The engineer has given you his opinion that the mere sweeping away of the locks and weirs would be no remedy to the drainage, consequently there is a channel of some kind to be maintained in the drainage interest of the river, and that channel we should prefer to take as the navigation channel; and while we have the navigation carried on, we should not object to being included in the catchment area.

387. Do both the boards which you represent to-day, look forward to the improvement of the navigation?—Yes.

388. Have not you deepened the channel from Coleraine to the sea, right down?—From the Cutts to the sea there has been no drainage of any navigation kind executed by Government; that distance northward, from the Cutts to the sea, seven miles, has come under the jurisdiction of the Coleraine Harbour Commissioners, and any sums that they have expended have been wholly supplied by themselves, or by grants made from the Irish Society; they have sunk 92,000 l. in support of the river, in erecting a wall at the river entrance for keeping open the navigation works, and for that the people of Coleraine and the district pay a large navigation loan.

389. Am I right in saying that whilst you concur that the navigation is nil at present, you object to the destruction of the navigation works in view of future contingencies that may arise?—Yes, we have had great difficulties in looking after what more immediately concerns us; we have secured the depth of the river entrance, increasing it from three feet at low water spring-tides to 10 feet, and on that there is a rise of tide of six feet, and we hope in the

Mr. T. W. Russell—continued.

course of time the attention of the Commissioners may be given towards the development of some kind of internal trade from Lough Neagh.

390. I believe there are steamers running between Glasgow and Coleraine?—Yes; a cross-channel steam trade; one of the boats of Laird and Company regularly runs.

391. Is Coleraine steadily improving?—Yes, our receipts have increased since the navigation works began from an average of 250 l. per annum to 1,300 l. average for the last three years.

392. Now as to the other allegation in your petition, the taxation of the catchment area, upon what principle do you object to it in assuming the drainage to be a good thing in itself; you assume that?—Certainly.

393. You think it necessary to drain that district?—Undoubtedly.

394. Upon what principle do you object to the catchment area bearing its fair share of the expense?—I should say that I have been asked by the Coleraine Board of Guardians to press that point upon you for them; a petition has been prepared, and the chief point deals entirely with regard to the catchment area, and I think the view we hold is that the land specially benefited should pay the tax, and that the portion of the catchment area outside the benefited lands should not be called upon to pay anything.

395. Not to pay anything?—No, not for the present outlay.

396. Do you know of any drainage scheme that has ever been carried out in this country where the catchment area is not made contributory?—The petition of the guardians was pressed very strongly at a large representative meeting that we had in Coleraine on Tuesday at which I was deputed to attend, that in the fixing of judicial rents from 1881—

397. That is hardly an answer to my question; do you know any drainage scheme that has been carried out in this country in recent years where the catchment area has not been made to contribute?—The catchment area should contribute unless there were special reasons to exempt the tenants of this land.

398. You think that the catchment area ought to be made to contribute unless there are special reasons against it?—Yes.

399. Will you state the special reasons here?—The tenant has already perfect compensation by having land flooded, and having the nature of the land taken into account in fixing his rent, and under these circumstances he alone would derive the sole benefit by the improved condition of the land, and he would be calling upon his neighbour to pay four-fifths of the money; and having three-fourths of the representation upon the board he would have the absolute control in his own hands, both with regard to the new works to be executed, and the subsidiary works, for the maintenance of the river.

400. Do you think that he would be the sole person benefited by this scheme?—Under what conditions?

401. Bear in mind that the other Bills are not before you, still there are large drainage proposals before the county; do you think that in

view

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Mr. ECCLES.

[Continued.]

Mr. T. W. Russell—continued.

view of a general drainage policy like that the farmer in the benefited area would be the sole person benefited by the scheme?—As it is he has had great additional good from the moneys which the catchment area would be liable for, but which the navigation area now is liable for; it is proposed to increase it by a per-centage of 43 upon the proposed outlay for the special benefit of this land; it is that to which I specially direct my objection; not against the liability for any former condition of thing.

402. I apprehend you think that the Land Commissioners in fixing the rents upon this flooded land have taken into account the character of the land, and that any improvement that is done upon the land the tenant ought to do himself?—If the present flooded condition of the land has been taken into account in fixing the rent, seeing that there is a large maintenance outlay now chargeable upon the navigation which we believe, roughly speaking, will correspond with the newly defined catchment area. I think that area bears sufficient at present by its past obligations without incurring any additional charge.

403. Have you seen how many of these tenants in this specially-benefitted district have had judicial rent fixed for them?—I have not.

404. You cannot say that it has been taken into account at all?—The representative from the board of guardians stated so publicly, at a large influential meeting on Tuesday last, and there was no one there to contravene the statement.

405. Have you any knowledge of the matter?—Personally, upon that point, I hold the opinion which you put before me in different terms.

406. You know the district exceedingly well, I am sure; what is the character of the tenantry in the specially-benefitted area as to their position, are they what you would call prosperous little farmers?—They are a fair average.

407. Are they quite equal to your North Derry farmers round about Coleraine?—In the specially-benefitted district round about Coleraine they are pretty good, but not in the other districts.

408. What is the size of the farms?—They would average the same size in county Antrim; generally 30 or 35 acres.

409. Mr. Gage said they were 20-acre farms?—I speak under correction in giving my opinion; I should say 30 to 35 acres.

410. What is the character of the land on the banks of the river, is that land principally land composed of bog?—It varies considerably; on a portion of the Bann the land adjoining the river, between Coleraine and Lough Neagh, is pretty fair, and other portions are inferior.

411. You would not consider that the tenants were very fair representatives of the well-to-do farmers of Ulster?—I include the portion inland as well as that immediately adjoining the river.

412. I speak of the land adjoining the river as the specially-benefitted area; my question has special reference to that; would you consider the occupiers of that land upon the banks of the river a fair sample of the well-to-do tenantry of Ulster?—In the immediate vicinity of the river I should not take them as a fair average.

Mr. T. W. Russell—continued.

413. The Committee may take it that you concur generally with Mr. Gamble in the question of the navigation?—Yes.

414. You are satisfied with his evidence upon that point?—Generally so.

415. And your objection narrows itself down to this, that if the lands are to be benefited the tenants should pay, and the catchment area ought not to be called upon to contribute anything?—And that the navigation should be kept intact whatever the navigation pay for; they shall keep the gates upon the locks for the purpose of letting vessels with a depth of five fathoms five feet six, have that channel available, and not abandon the navigation as proposed.

416. Now as the catchment area, am I right in concluding that that is the real fundamental objection?—Yes; the catchment area, and the abandonment of the navigation.

417. The catchment area is the fundamental objection; what more?—The abandonment of the navigation.

418. You expressed yourself satisfied with what Mr. Gamble proposed?—He did not propose to keep the gates upon the locks, and keep up the channel; what he referred to was the open navigable channel.

419. He does not propose to touch the locks at all or the gates?—He promised to do away with the lock-keepers and remove the gates.

420. No?—The preamble speaks of the abandonment of the navigation.

Chairman (to Mr. Gamble). Will you repeat what you said about it?

Mr. Gamble. The locks will be open as they are now, and will not be touched at all.

Witness. Will the gates still remain?

Mr. Gamble. Lock-keepers can be put there if there is any navigation to look after.

Mr. T. W. Russell. You, Mr. Gamble, said that those looking after the drainage who acted as lock-keepers would stay, and the channel would be five feet, which is equal to the channel in the new Ulster canal.

Mr. Gamble. Or any of the canals shuttling upon Lough Neagh.

Witness. You propose keeping it open for navigation purposes?

Mr. Gamble. I propose keeping that depth of water, so that if as navigation is desirable they can place lock-keepers there to look after it.

Witness. You did not propose putting lock-keepers, and you do not provide for it now.

Mr. T. W. Russell. What Mr. Gamble said was that those interested in the drainage, and engaged in the drainage could attend to the lock-keeping, and to the navigation if there is any navigation to attend to.

Witness.]

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Mr. ECCLES.

[Continued.]

Witness.] If it is not provided for in the Bill the drainage interest may not be provided for in any way.

Mr. T. W. Russell.] But not to abandon the navigation works. What I understood Mr. Gamble to say was that they kept the navigation works intact with a channel of five feet for whatever contingency might arise; he did not know anything about what was proposed with regard to the lock-keepers; he believed that those who were on the spot in charge of the drainage.

Mr. Gamble.] I said that those in charge of the drainage would maintain the locks when there is no navigation going on, but if navigation is going on you must have men to look after the boats going through.

Mr. T. W. Russell.

421. (To the *Witness*.) Practically Mr. Gamble's proposal meets your view?—If the clause is struck out with regard to the abandonment of the navigation and provision put in that there shall be open navigation of such a depth as can be given consistently with the interests of the drainage.

422. Apart from the estolment area objection, which is your fundamental objection, what are the other objections?—A portion of the river overflows seven miles north of the Cuts, and there has been no navigation money expended at any time by the Government in any case that should be exempt from taxation if the Bill was carried in its present form, though it is within the catchment area.

423. Why?—It has never derived any benefit from the drainage, and no public moneys have been spent upon it. The Coleraine Harbour Commissioners have control from that point northward.

Mr. Cox.

424. Is this north of the town of Coleraine?—Yes, and extends two miles south of it.

Chairman.

425. You heard it stated that the arch of the bridge above Coleraine would not in any case admit of the navigation being conducted through it, is that so?—Sir William Conyngham has made a mistake in referring to there being only two feet available at high water. I myself have frequently passed underneath the archway at high water in the river. I think there is six feet at high water, and 12 feet or upwards at low water. Steamers were for a number of years carrying coal in the north reaches of the river passing underneath and with a movable funnel they could pass under, a vessel of average dimensions, certainly a vessel of five feet or five feet six draught would have no difficulty, in my opinion, in passing.

Mr. Cox.

426. At low water?—Yes, or approaching low water.

Mr. Phillips.

427. As to this specially benefited district something was said about floods having been considered in fixing the rents; at the time the rents were fixed no doubt the liability of

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Mr. Phillips—continued.

the land to floods was considered?—The deputation appointed by the guardians to wait upon the Town and Harbour Commissioners and take joint action, strongly brought that fact before the meeting.

428. Even if the rents had not been fixed by the Land Commission the tenants could have have applied to have had their rents reduced if they liked?—Certainly.

429. There is nothing to prevent it?—No.

430. That means that they are contented with the rents as they are?—Yes, they have power to value them, but rents would be reduced more in accordance with the liability of the land to flooding.

431. In talking of the 1,100 L now spent in maintaining the navigation, you said you thought, supposing the navigation works to be maintained, that there would be only 200 L a year of it saved, have you any figures to show us about that; is there any statement of the expenses incurred by the present Navigation Commissioners?—Captain Given in his evidence in 1882 stated that considering the very small expense of the maintenance of the navigation as at present, it would be a very unwise thing to do away with these works; then he says there is a larger portion of expense incurred by the navigation trustees for the purposes of drainage, and in the subsequent plans he fixes the sum at 50 L, but that is an unduly low estimate.

432. Are not details published by the Navigation Commissioners?—No, the whole expenditure goes as navigation expenditure; they do not make a difference between the up keep of the channel and the payment of the lock-keepers.

433. Do not they publish any statement of accounts as to how the 1,100 L goes; is it kept secret?—There is no way of doing it except by a private examination of the books.

434. When you make this statement, that only 200 L will be saved by the abolition of the navigation works, you make the statement without looking at the books?—I base it upon the fact that the navigation locks have been so strongly constructed that their maintenance costs little; the gates may cost a little, and there is the payment of the lock-keepers; the only other expense is the maintenance of the small cuts from the lock to the channel.

435. You might have been able to have told us with absolute accuracy by looking at the books of the navigation trustees?—I have asked the secretary, Mr. Cruikshank, and he told me, I think, something over 200 L a year, of that, I am not positively certain.

436. You do not know, of your own knowledge, one way or the other?—No; except from the evidence given by Captain Given, he estimates the sum at 50 L.

Mr. Pinkerton.

437. Do you think it would be a benefit to do away with this drainage board entirely, the two existing boards?—I do not see any objection to having the trustees and the drainage board in one interest.

438. Which part of the river does the navigation board drain; the navigation trustees?—

They

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Mr. ECCLES.

[Continued.]

Mr. Pinkerton—continued.

They have the river from Lough Neagh to the Cutts at Coleraine.

439. When were the works carried out? I have never seen any of these works?—We began after the famine year.

440. During recent years?—The navigation works had been completed long before I recollect.

441. How many years have the navigation works been completed?—I should say about 25 years but I am not absolutely certain.

442. Have you expended any money upon the river during the last five years in the way of maintenance of the navigation works or drainage?—Do you speak of the Harbour Commissioners?

443. No?—I do not speak of the Navigation Trustees.

444. Have the Harbour Commissioners?—The Harbour Commissioners have spent their moneys recently.

445. That is from Coleraine to the sea?—Yes.

446. Have they expended any money above the bridge?—No, they have not.

447. Have you any idea what was the annual tonnage going up the river every year?—Before the navigation works were begun the revenue was about 250 £; I could not give the tonnage.

448. I refer to above the bridge; have you any navigation above the bridge at the present moment at all; from Coleraine Bridge?—Very slight; it is more steam launches and pleasure boats.

449. What do the dues from the navigation annually amount to?—The total revenue is spoken of as 70 £.

450. I think Mr. Russell asked you for an explanation why the catchment area should be non-contributory; do you think that a great part of the catchment area in the immediate neighbourhood of Coleraine affects the flooding of the river very much above the Cutts; below the Cutts is not in the catchment area?—Yes, the catchment area of all the lands between the Cutts and Lough Neagh affect the flooding to some extent.

451. To any great extent?—I cannot speak of my own knowledge.

452. You have no idea whether the tenants have had fair rents fixed along the river; you said you had no idea of the number of tenants?—No, I could not say.

453. You have been up the river several times?—Yes.

454. Do you think that it should be classed as agricultural land at all immediately abutting upon the river?—There are parts not much liable to the flooding, but the average is liable to flooding.

455. It should be kept for grazing land?—Yes, the immediately adjoining land.

456. If people, through the love of making money, extend their agricultural area so far as to be inside the catchment area, is it right to compensate them for that mistake?—Certainly not.

457. Taking the banks of the river, and taking this land that is entirely grazing land, if the occupiers break it up, you think they should do it at their own risk?—Certainly.

Mr. Pinkerton—continued.

458. Would flooding injure the quality of the grazing land along the River Bann, if kept in grass?—Not materially, I should think; but I speak upon that point with great hesitation.

459. During your experience I suppose they have extended the borders of cultivation closer to the river than formerly?—Yes, the land is better cultivated than it was.

460. And consequently the flooding has injured the people more on that account?—Yes; there is more injury from flooding of land in that district now than there was 10 or 15 years ago.

461. Would the Coleraine Harbour Commissioners be in favour of the total removal of the lock gates?—They deprecate it in the strongest possible fashion.

462. Why would they object to the removal of the lock gates?—Because then the navigation would be made into an open navigation, only available for future purposes. They would oppose the Bill if that was the case, and give it all the opposition they could.

463. I suppose the only objection the Coleraine Harbour Commissioners have to this is the unjust taxation and the destruction of the navigation works?—Yes; those mainly.

464. With reference to the pressing of the navigation works on, have the occupiers of the land in the district any power to object?—I believe at the time that the navigation works were pressed on mostly, they were for the public interest, but since that time the improved system of drainage has brought such a vast increase of water with it to discharge into the river, that the design of Mr. McMahon has been found incompetent to lessen the difficulties, and under these circumstances it is necessary in the public interest that there should be a little greater expenditure of public moneys from whatever quarter they may be raised, for the purpose of equalising the flooding which Mr. Gamble has referred to, so that it should be so localised in such parts where there would be the least injury done. I do not think the capacity of the discharge will be much increased.

465. In your opinion, the navigation works do not act as an obstruction to the floods?—I believe not, not in any degree. I think that if the two weirs were reduced in height, the present depth of the navigation would be maintained, but not when it is reduced two feet to correspond with the gain in the upper part of the river.

466. You made an important statement that three-fourths of the representatives would come from the benefited districts?—Yes.

467. And, consequently, the benefited district would have a controlling power upon the new board?—Yes, and only contribute between one-fifth and one-sixth of the moneys.

468. The present board would be the drainage board to do the work of the Ecclesiastical Commissioners, supposing a cut and dried scheme and the foolish idea of the Ecclesiastical Commissioners was brought forward that the Commissioners of the new board should have the option of rejecting but no power of modifying, would not you rather that the initiative should be left with the new board, and not with the Royal Commissioners?—As I understand the Conservancy

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Mr. ECCLES.

[Continued.]

Mr. Pinkerton—continued.

Conservancy Board have the decision in their hands to whether the works shall be proceeded with.

Mr. Cox.

469. Would this proposed drainage affect the navigation from Coleraine to the sea on which your Board has expended large sums of money?—It would not affect us at all. We should

Mr. Cox—continued.

object to pay anything if the navigation is done away with.

470. The navigation upon the Lower Bann?—Yes, we have never derived any benefit from the drainage works on the Lower Bann, and we strongly object to pay the money.

[The Witness withdrew.]

Friday, 19th July 1889.

MEMBERS PRESENT :

Mr. Coddington.
Mr. Cox.
Mr. Morrison.
Mr. O'Neill.

Mr. Phillips.
Mr. Pinkerton.
Mr. Plunket.
Mr. T. W. Russell.

THE RIGHT HONOURABLE DAVID PLUNKET, IN THE CHAIR.

MR. WILLIAM BILLS, sworn ; and Examined.

Mr. Pinkerton.

Mr. Pinkerton -- continued.

471. You are a Coleraine Merchant, are you not?—I am.

472. You are Secretary to the Bann Drainage Association?—Yes, I am one of the Secretaries.

473. And also a Poor Law Guardian?—I am a Poor Law Guardian, and also a Commissioner for the town of Coleraine.

474. What is your opinion with regard to the navigation of the River Bann?—There has been no navigation there for the last quarter of a century. It has been tried on two or three occasions, and on all those occasions it has utterly failed. There was a Royal Commission held on it, and that Commission obtained the best information that they could get, and they duly considered the question, but there were objections raised in the town of Coleraine to the decision of the Commission. The Commission arrived at the decision which was published in a Blue Book subsequently.

Mr. T. W. Russell.

475. Was that Lord Monck's Commission?—Yes, that was Lord Monck's Commission. I was examined before that Commission, and I was also examined before another Commission in the town of Coleraine, and there was thereby afforded to the people of Coleraine and the locality an opportunity to tender their objections to the decision of that Commission. The Coleraine parties, who are now raising objections to this scheme, tendered no material evidence on that occasion to the Commission. The second Report of the Commission was also published.

Mr. Pinkerton.

476. What was the reason of the opposition of the town commissioners, was it against doing away with the navigation?—Yes, but I could never get them to tender their reasons. They appeared before the grand jury of the county of Londonderry some years ago, when I was also present, and the parties who are now opposing this scheme alleged that there was a sum of about 90,000 £, which had been spent on the tidal portion of the river. The grand jury said, Well you consent to remove those navigation works on the lower Bann, that is from the Cutts to the Toome, pending the results of the lower navigation on

the tidal portion of the river. Those works have been completed so far as the exhaustion of all the money that they could obtain. They have exhausted all the funds that they could get, and now the work is calculated to do all the cross-channel traffic for five years from Coleraine Bridge to Glasgow.

477. Was the navigation successful with regard to the Coleraine cross-channel traffic?—No.

478. Do you look forward to any successful navigation being carried on from Coleraine to Toome Bridge up the river?—It is impossible.

479. Why do you say it is impossible?—Because in the nature of things it is absolutely impossible that any navigation could ever exist. I have expressed that opinion seven or eight years ago, and I have waited for five years, and I want to know what is the result? Has there been any navigation? The town clerk, Mr. Eccles, was examined before that enquiry. He did not say that there was any navigation, and I tell you, gentlemen, that not one ton of goods has gone up through Coleraine Bridge, or through those locks for the last five years, notwithstanding the lower navigation has been the greatest success that could be made.

480. Supposing that you had boats built on a proper principle, would it not be possible to navigate that part of the river with boats of light draught from Coleraine?—If you mean from Cutts to Toome, that is impossible; it could not now exist, so far as my knowledge of the tide is concerned. Within the last 10 years I have driven, personally, more coals into the tail of the country than all the other Coleraine people put together.

481. I had not the pleasure of being here yesterday, but you heard the engineer examined yesterday; do you think it is possible to have navigation and drainage together?—I do not.

482. Do you consider it necessary that the navigation works should be removed?—I do most undoubtedly; and I allege that you could never extend the navigation and the drainage together, and that is exactly where the Government made a mistake 30 years ago. Also, I have alleged before the Lord Lieutenant, and the Government before that, that the Government itself, having

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Mr. ELLIS.

[Continued.]

Mr. Pinkerton—continued.

having made the mistake of endeavouring to have the navigation and drainage together, which is an impossibility, the Government, at their own expense, should remove the navigation and tax the country nothing for it, because they made this mistake, and we have paid for it.

483. What was the expense incurred by the Coleraine Commissioners and Harbour Board, after the Act of 1863 was passed?—I was a promoter of that Bill myself in 1863, and under that Bill we obtained power over the tidal portion of the river to improve it; that is, from the Cuts to the sea.

484. How much money was expended?—About 25,000 £. was expended then, under the guidance of Sir John Coode, the engineer, and he alleged that if they removed the obstructions in the nail of the river they would gain by it; but, after the committee had spent about 30,000 £., there was no improvement took place. Between 4,000 £. and 5,000 £. was given by the Honourable Irish Society in London for the improvement of those works. No improvement took place in the navigation; but in that Bill we took power to put a swing in Coleraine Stone Bridge, in order that it might divide the current. I was trying at that time to drive coals into the interior of the country, to Mr. Barclay's Bleach-green, who had very extensive bleach works, which consumed about 5,000 tons a year. Those works are now stopped.

485. Are you in favour of the present drainage scheme?—May I ask whether you mean of the whole of this Bill?

486. Yes?—Yes, I think I am in favour of this Bill in its entirety. There has been no real objection made to it by the Coleraine Board of Guardians or the Commissioners' Board, excepting in minor details, that is to say, with regard to the taxation over the taxable area, and the non-representation of the taxable area.

487. Were resolutions passed by the Coleraine Board of Guardians condemning this Bill?—That is two years ago.

488. I hold a petition in my hand which was presented to the House from the Coleraine Board of Guardians?—They moved no resolution; they merely adopted a petition which had been sent forward 12 or 18 months ago; we had no special meeting on that day.

Mr. T. W. Russell.

489. You are a guardian, I think you say?—I am; I represent a division of Coleraine; but the board of guardians were by no means unanimous in forwarding that petition to the Committee.

490. Are you in favour of 37,000 £. being levied as a charge upon the catchment area outside the benefited land?—That is more a matter of the detail of the Bill than of the general principle of the Bill, but I ought to respectfully submit to your honour that the evil does still exist in flooding the land along the banks of the Lough Neagh and the Upper Bann. It is the only outlet for the largest catchment area in the kingdom. I think I may say that Lough Neagh is the largest fresh water lake in
0.129.

Mr. T. W. Russell—continued.

Europe have one. There is no other outlet for Lough Neagh and the upper part of the river Bann than through Coleraine, and I therefore submit that it should be improved. There are 45 or 46 chairmen of different boards, and Mr. James Lyle said he was a party to the promotion of the Bill, and the powers that the Government sought in 1846 and 1846 included navigation as well as drainage, but the country who were to pay the taxes only wanted them to have powers for drainage alone. The Government then added navigation to it. If you keep up the surface of the water of the Bann to the level of the banks for floating power you stop the outflow of the drainage of the country. You have no reservoir accommodation for storing those periodical and perpetual floods. The discharging power of the locks is insufficient for the escape of the water, and there is nothing left but for the country to be flooded. I have studied this point, and I have come to what I consider a very sound and stable conclusion.

491. What is the conclusion at which you have arrived?—I say improve the lock gates; give us additional discharging power in the locks. You thereby lower the waters of the Bann. The water that now fills on the catchment area has such facilities owing to the arterial drainage of the country being very much improved, that the water that falls upon the large catchment area can come into the lake in half the time and with double the rapidity that it had done 30 years ago. The engineers that planned the openings to the Tume weirs no doubt made the discharging power sufficient for the then existing circumstances, but the circumstances have now altered, and the large catchment area can raise the water of the lake, after 24 hours' rain, two feet. The discharging power of the openings in Tume Weir is altogether greater than it was before, so that they can discharge more water than the engineers calculated upon; but the pressure upon the lock is at least double what it used to be, so that sometimes the country for 32 miles is inundated. I submit that we must have more discharging power, or else the water must be stopped in some way from getting into the lake. I consider that the only objection I have heard at the Commissioners' board and at the guardians' board is, with regard to the taxation of the country in the catchment area. But I meet that in this way, that it has been proved beyond the shadow of a doubt before a commission of three practical men, who knew the figures, that the cost of maintaining the navigation works is about 1,100 £. a year. I may tell you that if you abolish those works you save the ratepayers that 1,100 £. or 1,200 £. a year; and if the whole of the catchment area is taxed only a penny in the £., the difference is immaterial to the ratepayers.

492. Your point is this, that if the expense of maintaining the navigation works is done away with, the catchment area will be relieved from that yearly amount?—Yes.

493. And that the new tax to be levied upon the catchment area for drainage purposes will not, as a matter of fact, amount to more than was levied for the maintenance of the navigation?—That is exactly the point that I want to make,
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Mr. ELLIS.

[Continued.]

Mr. T. W. Russell—continued.

because this is a matter, I think, for the Government of the country to decide, and after giving the subject due consideration, they give us some 20,000 £ or 30,000 £ for nothing. I am the largest importer in the town of Coleraine. I have the greatest interest in having those works completed if it could be done. I am sending 1,000 tons a year just now to Mr. Adams, one of my customers, in addition to what I send in other directions.

Chairman.

494. You said you considered that by this Bill the Government were giving you 20,000 £?—I think that they are acting liberally in giving us 20,000 £ for nothing, and the balance (if any) would be very immaterial on the ratepayers, because I consider that if the first 20,000 £ is wisely and judiciously laid out in opening the flood-gates at the locks and in increasing the discharging power of the river, it would be a very great advantage.

Mr. Pinkerton.

495. I think you said you were in favour of the whole Bill; are you in favour of the embankment scheme?—I said that I was in favour of the principle of the Bill if it was modified to meet the views which I and others entertain.

496. You understand this river, do you not?—Yes.

497. And you believe that the embankment scheme would be injurious to the district?—It would be impossible to do it with any effect. It would be simply losing the public money, and I will tell you why: there are little streams of water which we call burns, which run down between two townlands, and sometimes between two farms; I may take it that the honourable Member knows the district that I am talking about. From opposite Mr. Gage's property, from Agvevy Bridge down to the Cutts at Castle Row, near Coleraine, there are a number of little rivers or streams which, in a dry summer, are absolutely dry, and if you embank the river along the side where those streams are, they would be filled with water again in wet weather; but if you run the embankment parallel with the river you prevent the possibility of the water getting out of those little burns into the river, and consequently you will inundate the country adjacent to the river; you cannot get it into the channel of the river. We, therefore, gain nothing by keeping the water of the Bann out; that is one reason. A second reason is this: I have driven through over the country roads between Coleraine and that bridge on the east side of the River Bann, of which I should say, probably one-third of a mile, or very nearly so, to Mr. Gage's gate, the horses' feet were covered with water, and we saw the wash of the bridge, that is the straw and the boulders, two feet higher. I, therefore, submit that it would be utterly impossible to erect any bank sufficiently high along the river, and parallel with the river, to exclude that great volume of water coming down the Agvevy River in case of flood; I know that from my own experience of low water.

Mr. T. W. Russell.

498. You have given a very fair exposition of your own views; now, as regards the removal of the locks, are you quite clear that that ought to be done?—I do not wish the masonry to be removed.

499. I am speaking of the lock gates; do you wish them to be removed?—I simply want them opened and kept open, except when it would be necessary to close them, which could be easily done.

500. Have you read the Report of the last Royal Commission?—Yes.

501. You gave evidence before it, did you not?—Yes.

502. That was the decision of the Royal Commission, practically, to open the lock-gates?—That is what I asked the Lord Lieutenant to get done.

503. You are not aware of the Report of the Royal Commission on that point?—No.

504. They decided in favour of abandoning the navigation, are you aware of that?—Yes.

505. Have you ever considered this point; supposing that your plan was carried out, and the lock gates were left open, do you think that that would facilitate the outlet of the water?—It would certainly add to the discharging power of the river.

506. Have you considered this point in connection with the discharging power, that there are eel weirs upon the river?—There are.

507. Of course if anything is done to injure the eel fishing compensation will have to be paid to the owners of those weirs?—That is within the range of possibility.

508. Have you considered the point that the eels might get through the lock gates if left open?—Not particularly.

509. Supposing that the Committee came to the conclusion that you are right, that those lock gates should be kept open, it is very likely that new eel traps would require to be erected; would not the eels get through the lock gates, and so avoid the eel traps which exist now?—May I ask what part of the river the honourable Member is referring to?

510. Any part of the river where the eel-traps are in existence?—But that is a considerable distance.

511. I am asking you now as a matter of principle; I am not asking you to specify the application of the principle; where they have eel weirs in the river there are large vested interests, and if you open the lock gates and allow the eels to get through those locks, and so avoid the eel traps that have been erected, do not you think that that would injure the fishery?—No.

512. Why not?—Because I have a relative who is the lessee of a fishery at Kilrea, and he got compensation for walls being erected, because they stopped the eels getting up to their feeding ground, that was 50 years ago; and if you take them away now they will get damages there again.

513. I think you may take it for granted that compensation will not be given quite as easily as appears to have been done in that case; but can you show the Committee any reason why eels should not go through those gates if they are left open,

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Mr. KELLY.

[Continued.]

Mr. Fiskerton—continued.

cocks of hay put up on a Friday afternoon just at the beginning of the hay crop season. From Friday to Sunday morning there was a very considerable amount of rain-fall, and I went out on Sunday morning along the road that runs alongside the Bann, and the cocks that I saw put up on Friday afternoon I saw submerged on Sunday, about three feet high. The same farmer has meadows all along the Bann shore, and those meadows were every one of them submerged before they were cut, and the consequence was that the sand and silt that came down in the water quite destroyed the hay. It was all covered with sand.

540. Nobody denies the flooding; we all admit the flooding; but people differ in their opinions with regard to the methods of removing it. Have you read the Government Bill?—I have.

541. Are you in favour of the methods proposed in the Bill?—I cannot say so exactly with regard to the embankment. I do not see what use the embankment is going to be, unless you provide an outlet with a middle outlet through it, so that when the water comes down the Bann you can shut the mouth of the pipe to stop the water from going back, because otherwise it would get behind the embankment.

542. The scheme is to embank the streams as well as the main river?—Yes.

543. Do you think that the catchment area should be taxed, in order that those lands should be drained?—I think so, because it is really the water from the catchment area which causes these floods. If the water from the catchment area did not get down into the Bann, the consequence would be that there would be no floods.

544. Have you studied the navigation question?—Yes.

545. Do you think it possible to drain the river, and maintain the navigation works at the same time?—I do not think so; and, besides, I do not see that the navigation is any good at all, and I do not see any chance of its ever being any good.

Mr. Cox.

546. You say you think it is fair to tax heavy mountainous land?—Yes, I think so, because my opinion is that it is the water from those hilly lands finding its way down into the river that causes the floods, and I think if you provide an outlet for the catchment area they are entitled to pay something toward it. I do not see that the people along the Bann shore ought to have to pay everything, and to provide capital for taking the water away from the catchment area.

547. Those are the people who you think should be taxed?—Yes; the water falls upon their land, and finds its way from their land down into the river.

548. Those may derive a large amount of benefit, but how about people 10 or 15 or 20 miles away from the drainage of the Bann?—I do not say those people particularly, because the water goes down nevertheless; but looking to the amount of water coming from those lands, I do not see that the people along the Bann shore ought to suffer on account of the water that comes

Mr. Cox—continued.

from those lands. Those people are quite independent of the Bann navigation, or anything else. You cannot stop the water from coming down, and I think those people are entitled to pay something towards finding an outlet for it.

Mr. T. W. Russell.

549. I gather that you object to the embankment portion of the scheme?—Yes; I do not think that that is going to be very profitable.

550. Are you aware that there is only one part of the river to be embanked?—Yes; unless the embankment is run along each of the tributaries coming into the Bann, the water will get behind the embankment, and flood the land all the same.

551. Are you aware that the embankment part of the scheme must be taken in connection with the other portions of the scheme, and that if a freer passage is found for the water the pressure on the embankments will be less?—If that is so, I should have to except the embankment part of it.

552. You know that it is only one part of the scheme, and that it is calculated to act with the other parts?—If the tributary streams are sufficiently stopped back from finding their way behind the embankment that would obviate my objection.

Mr. Cox.

553. Have you any idea what the lengths of those tributary rivers are?—No, I have not. That would depend entirely upon the fall of the country. In some parts you have to go very much further back than in others. On the county Derry side I presume that the embankment would have to run very much further than in county Antrim.

Mr. Phillips.

554. Do you know the district well?—Yes.

555. You said that you are an estate agent; does that mean a house agent, or a land agent, or what?—I am a house and estate agent.

556. Have you any knowledge of estates generally?—Yes, I have.

557. Can you tell me the value of the good land, the land not flooded, along the area of the Bann?—It is worth about 15s. an acre.

558. I do not know whether you was here yesterday?—I was not here.

559. We had it in evidence yesterday that the land along the river that will specially benefit by being drained is 25,000 acres, and is now let at 16s. to 18s. an acre?—Yes, I expect that is about the average rent.

560. And therefore that land which is most flooded is let for more than the land which is not flooded?—I think the land along the Bann shore is sometimes worth very little on account of those floodings; I have seen very good crops quite destroyed; and if a field of potatoes, for instance, is submerged with water, the crop is not worth gathering, and consequently the whole crop is lost, and the land is worth nothing.

561. I am asking you if you know what is the value of land in the valley of the Bann, which is never flooded?—I think it would be worth about a guinea an acre.

562. In

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Mr. KELLY.

[Continued.]

Mr. Phillips—continued.

562. In the case of land which is liable to floods, what should you put the rent down at?—I do not know that I can exactly answer that question, because it depends entirely upon the season. Land along the Barr, if it is fairly good land, and if it is not flooded, and the crops are not destroyed, I should think would be worth quite as much as other land.

Mr. Coddington.

563. If it were not flooded you think that good land would be worth 21s. an acre?—I should think so.

Mr. Phillips.

564. In the case of land which is now liable to floods, what added value would be given to that land, in your opinion, if this Bill should pass?—I think it would make that land equal to any other land that was flooded.

565. Could you give a rough estimate of how much a statute acre people would be inclined to give for land if this scheme were carried out?—I do not know that I can very well answer that

question. Supposing the floods were obviated, land which is now flooded at some periods would be equal to any other good land in the neighbourhood.

Mr. Pecherton.

566. Would you give precisely 5s. an acre more for it?—I should think it would be well worth 5s. an acre more.

Mr. Phillips.

567. Have you calculated what 8,000 l. contribution to 20,000 acres of land would come to?—No, I have not.

568. I think it is 5s. 6d. an acre. You are not interested in any of those flooded lands, personally, are you?—No, I am not.

569. I suppose you cannot tell me what is the rateable value of the collection?—No, I cannot.

570. Do you know whether anybody is coming that can tell us that?—I do not know; it is probable that you will get it from some other witness.

Mr. ROBERT DOUGLAS, sworn; and Examined.

Mr. T. W. Russell.

571. Where do you live?—At Glenstoll, near Agavey Bridge.

572. You are the Chairman of the Barr Drainage Committee, are you not?—Yes; and have been for the last 10 years. I appeared before both the Royal Commissions.

573. Before Lord Monck's Commission, and before Sir James Allport's also?—Yes, both.

574. What is the object of the committee of which you are chairman?—For the purpose of having the Barr drainage land improved.

575. Have you read the Bill now before the Committee?—Carefully; I have it in my possession.

576. Has it been before your committee?—It has.

577. What finding have they arrived at?—They believe in the Bill generally; they are satisfied with the Bill generally, with some little amendments.

578. They are satisfied with what may be called the principle of the Bill?—Yes.

579. But they think it ought to be amended?—Yes, in some important matters.

580. Have you considered the question of the navigation of the Barr?—I have had experience of the navigation of the Barr.

581. Do you think it possible for navigation and drainage to go hand in hand?—I do not think that it is possible; they cannot both be in use at the same time.

582. Are you aware that you differ from all your engineers in that belief?—Of course I am not an engineer.

583. But are you aware that you differ from your engineer in that belief?—I am.

584. Did you hear Mr. Gamble examined yesterday?—I did.

585. You believe that the navigation works ought to be removed?—Yes, I do.

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Mr. T. W. Russell—continued.

586. At all events that the locks ought to be kept open?—Yes, I do certainly think so.

587. Your evidence on that point is the same as Mr. Ellis'?—Yes, just the very same.

588. Referring to the taxation point; are you satisfied with the free grant from the Government?—Yes, perfectly satisfied.

589. Are you satisfied with the taxation on the specially benefited area?—They are entitled to be taxed less or more.

590. I am speaking now of the occupiers of the benefited lands; do you think that they ought to be taxed?—Yes, I think so, less or more.

591. Have you considered the taxation of the catchment area?—Yes.

592. Do you think they are entitled to be taxed?—I do.

593. On what ground?—On the ground that the tributaries empty themselves into the Barr. Where do they come. Do not they come out of the catchment area? Consequently the catchment area people could not have their land drained at all but for these tributaries.

594. You consider that the principle of taxing the catchment area to a certain extent is a sound principle?—I do.

595. And a just principle?—Yes, certainly.

596. Would you concur in the proposal to limit that taxation to 1 d. in the £?—That is a question for the Government. I should not like to give an opinion upon that point at all.

597. But you approve of the principle of the Bill generally?—I do, and so do the committee.

Mr. Pecherton.

598. Supposing that the land shutting on the Barr had been kept for grazing, would flooding be injurious to it?—Yes, most decidedly injurious.

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599. You

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Mr. DOUGLAS.

[Continued.]

Mr. Pinkerton—continued.

599. You think that flooding does not benefit grazing lands?—No, I think it does not, for this reason: it may increase the growth of the grass, but if there comes a flood in the grazing season, it stands up the grass, so that the cattle will not eat it.

600. You are an occupier there interested in the land?—Yes, in the Ponyborough district; the special district it is called in the Bill.

601. Supposing you occupied a farm in the hills in the catchment area, of vastly inferior land to the land which you are acquainted with, do you think it right that you should be taxed more than those other people who have exceptional privileges, and that they should be benefited?—If I receive no benefit from it, I would say I should.

602. Would you exchange a flooded farm along the Bann shore, at the present moment, for a farm in the catchment area?—That would entirely depend upon the circumstances of the case.

603. Then, therefore, the men along the Bann shore, in your opinion, are better circumstanced than the men in the catchment area?—I did not say that.

604. You are not prepared to say that you would exchange with them?—No, I do not say that at all.

605. What would be the added value that would be given to the land per acre?—The value that I put on it myself, for non-flooded land, would be 1 £ an acre.

606. What would be the increased value if it was freed from flooding?—That is the value if it was freed from flooding.

Mr. Pinkerton—continued.

607. What does it stand at at present?—I would say that it is worth 5 s. an acre less, in some years it would be more.

608. Then you would have 15 s. an acre added value?—I think so.

609. You think that mountain land would not be worth 6 s. 6 d. an acre after it was drained?—That is a question for the catchment area; they could not get rid of their water at all if it were not through the Bann.

610. Take Mr. Harkin's side of the river, you know that he has a considerable extent of bog land there worth about 2 s. 6 d. an acre?—I do.

611. Do you say that that land would increase to 1 £ an acre if drained?—There is not a very large bog area there, I have been over it all, and valued it too.

612. You would say that the added value is about 10 s. an acre on the average, out of 29,000 acres, along this flooded area?—No, I did not say 10 s. an acre, I said 5 s. an acre less.

613. You said that the flooded land at the present moment was worth 5 s. 2?—No, 5 s. an acre less.

Mr. Morrison.

614. I suppose you do not know what a 1 d. in the £. on the catchment area would come to?—No, I never made that calculation.

Mr. Coddington.

615. When you and other witnesses speak of an acre, do you mean a statute acre?—It is all statute acres in our district.

Mr. EDWARD STANLEY OBEY, sworn; and Examined.

Mr. O'Neill.

616. You are Secretary to the Lough Neagh Drainage Trustees?—Yes.

617. How long have you been secretary?—Since August 1883.

618. And you have had an opportunity of knowing that there is a considerable flooding in the district under your charge?—Yes.

619. Have the Lough Neagh Drainage Trustees come to any decision about this Bill?—They approve generally of the principle of the Bill.

620. But not of all its details?—No, they have suggested some trifling alterations in two of the clauses.

621. We shall be glad to hear what suggestions they make?—The first suggestion that they make is with regard to Clause 16. According to that clause the special rate on lands improved is charged on lands not improved in the hands of the same owner at the time of the award. I think that in future this may lead to complication and difficulty, if by any chance two parcels of land should become the property of different occupiers, and they suggest that that clause should be left out.

622. It might happen that a farm which is not in the improved district changes hands, then the new owner would have to pay exactly the same for what was not improved?—Quite so.

Mr. O'Neill—continued.

623. What other suggestion have you to make?—The other suggestion is with regard to Clause 34; they propose that in the event of an occupier through whose lands the connecting drain is made, benefiting by the work, he should pay towards the work such sum as the Conservancy Board may think fit.

624. At present, if a drain is made through a man's land, under the Bill he is entitled to compensation?—Yes.

625. You think, or the trustees think, as I understand it, that the drain may benefit his land?—Yes.

626. And that, instead of being paid, he ought to pay?—He ought to contribute something towards the cost.

Chairman.

627. Could that be carried out very well in practice?—The trustees propose leaving the matter to the Conservancy Board to decide.

628. Do you mean that, in a scheme which is to be submitted by the Commission to the Conservancy Board, this point should be dealt with?—It is dealt with to a certain extent in the Bill at present; the only thing is that the Conservancy Board can give power to construct drains through another occupier's land, but they can only award compensation to the man in whose

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Mr. OBBE.

[Continued.]

Chairman—continued.

whose land the drain is made for any injury he may sustain. The trustees think that if this man derives a benefit from the work he should be called upon to contribute something towards the cost; those are all the suggestions that I have to make on their behalf.

629. Otherwise they approve of the Bill?—Yes, they approve of the principle of the Bill generally.

Mr. Coddington.

630. Do they see any objection to the navigation being continued in the modified form suggested by the engineer?—The feeling of the trustees is that they do not consider that the navigation provides a sufficient outlet for the drainage, for with them of course drainage is the first question.

631. Do the trustees express an opinion as to whether the navigation could be continued?—They have expressed no opinion upon that point, I believe.

Mr. O'Neill.

632. Do they ever express an opinion about the distribution of taxation?—No, they never have; the only opinion that they expressed was that they thought the grant from the Government was insufficient.

633. Why was that?—Because they look upon it in this way, that the grant from the Government would simply make up for the defects of the Lower Bann Navigation Trustees, who have allowed the river to silt up, and Mr. Manning has estimated the cost of restoring it to its original condition as 20,000 £ or 24,000 £. The grant which the Government propose to give will only accomplish that.

Chairman.

634. Where do the people who are represented on your board principally live?—They live in the immediate district; there are many representatives of each county; the large proprietors live throughout the five counties in which these lands lie.

Mr. Phillips.

635. I think you said that the cost of restoring the river to its original condition, and doing away with the navigation would be only mitigating the evil caused by the Lower Bann Navigation Trustees, and would cost some 20,000 £?—I did not say that. I said that the cost of restoring the river to the condition in which it was when it was handed over to the Lower Bann Navigation Trustees would be 20,000 £, as they had allowed the river to silt up; that is what I meant.

636. How much, in your opinion, would it do away with the navigation works?—I cannot tell you anything about that.

Mr. Pinkerton.

637. Were you present yesterday when Mr. Eccles was examined?—Yes.

638. If I recollect, his evidence was to the effect that the Lower Bann Navigation Trustees have spent a large portion of the money in deepening the river?—Yes, I think so.

639. How does that evidence square with your statement that they have allowed the river to silt up?—I am going on Mr. Mannings' Report.

0.123.

Mr. Pinkerton—continued.

640. You believe that the Lower Bann Navigation Trustees are claiming credit for what they do not deserve?—The Lower Bann Navigation Trustees for many years maintained, and did all they could to keep open the river for navigation purposes, not for drainage purposes at all.

Chairman.

641. Do you know that in recent years they have constructed large works for drainage?—Yes, they have.

Mr. Coddington.

642. Within what number of years?—They have done so for the last six years, certainly.

Mr. Pinkerton.

643. Mr. Eccles said that 1,100 £ of annual expenditure had been almost entirely spent upon drainage. If 1,100 £ was spent annually on drainage from Carrree and Tosnae Bridge and Cutts to Coleraine, would the river be in the same state in which it is at present?—I really could not tell you.

644. You are strictly non-committal with regard to that?—I know nothing about the Lower Bann, or how they spend the money.

645. With regard to the Conservancy Board, would you not prefer that the new Board should have the power to initiate schemes rather than simply consent or approval?—No; I think it would be better to leave it in the hands of the Commission.

646. You think that the Report of the Commission should be a cut and dried thing sent down to them, and simply leave the Conservancy Board the power to reject or approve it?—Yes.

647. You simply elect a new Board for the purpose of saying yes or no?—Yes.

Mr. T. W. Russell.

648. Do you think that the Conservancy Board that would naturally be elected in this case would be a very good Board to decide upon engineering points?—No, I should not think so.

Mr. Pinkerton.

649. The new Conservancy Board might be called upon to send in an account of the drainage they require, and further to submit the plans to the engineer, but as the law stands at present the Royal Commission decides that 20,000 £ or 60,000 £, as the case may be, should be spent in the district, and they only leave the Conservancy Board the option of saying yes or no to the proposal; do not you think that the new Board should have the power to say how much money should be expended, and how far these works should be carried out?—We say that the Commission should have power to vary a scheme; but the Commission should only vary it on the representation of the Conservancy Board.

Mr. T. W. Russell.

650. Would not there be the much greater danger if these matters were left to the Conservancy Board, that they might spend the Government grant of 20,000 £ and probably go no further?—Possibly.

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651. Is

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Mr. O'NEIL.

[Continued.]

Mr. Cox.

661. Is there no danger of the Royal Commission doing that?—I do not think that likely.

662. Under this scheme do you approve of taxation without representation?—No, not as a rule, I do not.

Mr. DAVID GRAHAM, sworn; and Examined.

Chairman.

654. WHOM do you represent?—I appear before you as the Superintendent of the Lower Bann Navigation.

Mr. O'Neill.

655. Are you an engineer?—I am the superintendent in charge of the works. Before I undergo examination, I wish to read this statement. My object in doing so is neither to condemn nor approve of the Bill which you have now under your consideration. My object is personal. I find from the clauses in your Bill that the navigation of the Lower Bann will be abolished; that the trustees will also be abolished, and that the services of the officials will be dispensed with. This will entail an irreparable and serious loss to us officials. I may state, for your information, that the majority of us officials have been under the control of the trustees since the navigation was handed over to the said trustees by the Board of Works, and our pay has been now so limited that none of us have been able to make any provision for the future. We have all spent the best of our days in the trustees' service, and are ill prepared for any other work only that which we are used to. Sir Charles Lewis, on our behalf, kindly asked the Chief Secretary whether he would make any provision for us in the form of compensation or gratuity. The Chief Secretary's reply was in the negative, but that we might get employment under the new conservancy board. We are all old men now; I may say I am the youngest of the nine officials; you can judge from that what kind of labour we should be fit to undertake other than that which we were used to. We now appeal to you, Mr. Chairman, and honourable gentlemen of this Select Committee, to take our case under your kind and generous consideration, and we rely on your honest convictions that you will see justice done to us, being deprived of our means of existence from no fault of ours; so we humbly trust you may see your way to prevail upon the Chief Secretary to give us compensation, or a gratuity, from whatever sources he has at his command. I have been asked by an honourable Member where the means would come from to give this compensation or gratuity. Knowing no other, I pointed out two schemes whereby, if the Government thought proper, and approved of the same, each of us officials could be provided with an ample gratuity. You are aware, I hope, Mr. Chairman, and honourable gentlemen of this Select Committee, that in 1677 there was a Government grant of 80,000 l. given to Ireland to assist in drainage. You are also, I hope, aware that 6,000 l. of the above sum was allocated for the purpose of drainage in the Lower Bann.

Mr. Cox—continued.

643. Has your Board formed any opinion as to what will be the effect upon the Bann drainage by this scheme?—No, I can give you no opinion about that.

Mr. O'Neill—continued.

I am perfectly well aware that the above sum was not expended on the Lower Bann. There might have been 500 l. or 600 l. spent in dredging, and as to the benefit that the drainage received from it, I leave others to form an opinion, so that whatever is over and above the sum of 6,000 l. must be in the hands of some person who I am not aware of. If this can be found out from the proper authority, there should be a sufficient of this sum left to give the officials of the Lower Bann ample compensation. On the other hand, if the Government would rescind one of their clauses whereby they ask the trustees to hand over their plant, and any money which they have in hand, to the new conservancy board, and leave it to the trustees to give over their plant to the new conservancy board as a valuation, then, with whatever balance is in hand of the 6,000 l., and the cash in hand of the trustees, and whatever their plant would realise, sufficient out of the above sums, they might satisfy the wishes of the officials of the Lower Bann. If you would approve of the above scheme, it would prevent you from interfering with any existing arrangements. This scheme would entail on you no extra labour, nor detain you in any way in carrying out the laborious work you have in hand. You would have simply to make your award and give your orders to the proper parties concerned, and your orders would be carried out to your satisfaction, and their hopes realized by the officials of the Lower Bann. I am perfectly satisfied that the Bill will become law. You have the material to carry it by a triumphant majority, and long may you be in the same position, knowing that whatever your united counsels may adopt, they will be the convictions of honest desires for the good of our country; and when all is completed, you can always all rest satisfied that you have done your duty to all concerned. As to my appeal to you, I need say no more. You know our position, you also know our wants, and we humbly and respectfully leave the matter in your honourable hands, believing you will see the justice of our claim, and that they will receive such consideration from your joint counsels as will bring relief to the long and honest service and labours of the officials of the Lower Bann Navigation.

Chairman.

656. You wish us to submit your case to the Chief Secretary?—Yes, and you honourable gentlemen.

Mr. T. W. Russell.

657. How many officials are there?—There are nine.

658. What

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MR. GRAHAM.

[Continued.]

Mr. Cox.

658. What are their aggregate salaries?—The aggregate of the salaries of the nine officials is 308 l. The earnings are 70 l.; that is to say, the earnings by traffic. The earnings on the river are on an average 70 l. a year.

Mr. O'Neill.

659. Does the 308 l. include your secretary's salary?—It includes everything.

Mr. T. W. Russell.

660. What does the secretary do?—He keeps the accounts for the grand jury every year.

Chairman.

661. How much does the secretary get?—£. 52 a year.

662. And how much does each of the lock-keepers get?—Your humble servant gets 90 l. a year.

663. Are you a lock-keeper?—No, I am superintendent of all the locks.

664. How much do the others get?—The lock-keeper at Cutt's Lock gets 28 l. 12 s. a year; the one at Carrage gets 23 l. 8 s.; the one at Portm gets 23 l. 8 s.; the one at Portglenone gets 23 l. 8 s.; the one at Antrim gets 23 l. 8 s.; the one at Toome gets 28 l. 12 s., and the one at Aivry Bridge gets 15 l. 12 s.

Mr. Cox.

665. How many years have you been in the service?—Our secretary has been there 20 years.

Mr. Coddington.

666. How many years have you been superintendent?—Fifteen years, and the Cutt's lock-keeper has been employed for 27 years.

Mr. T. W. Russell.

667. What do you say to the proposal that the officials should be employed under the new conservancy board?—I would have no objection to serving under the new conservancy board, provided it was anything consistent with the duty which I have been usually able to perform.

Mr. Pickerton.

668. May I ask you what your duties were?—There are four county bridges.

669. We have heard that for five years there has been no navigation; if there is no navigation how could the lock-keepers be employed?—That is a mere whine. We have been dredging these last 15 years.

670. How often are these lock-keepers employed in opening and shutting the locks in the course of the week?—Seldom, except during the summer, three or four times a day during the summer, or once or twice.

671. What sort of traffic goes up and down the river?—Fishing boats and rafts of timber. There were three rafts of timber down this summer from Portglenone.

672. You had to open the locks three times in that case?—Yes, all the locks.

673. That was a very heavy strain upon you?—There is no doubt that the labour is not very severe; but still the time is occupied and the time is lost.

O.129.

Mr. Pickerton—continued.

674. Do you think it would be fair that the taxpayers should be compelled to maintain men in idleness for an uncertain period, because they happened to have been kept in idleness during the last 15 years?—I do not believe that I am competent to answer that question; I leave it to men of more skill; but I would consider that when a man's time is occupied he may just as well be employed as not; he loses his time all the same, and they should be paid for loss of time.

675. You said, did you not, that they were unfitted for any other active employment?—There is one of the officials who is 20 years of age; I do not know what employment you could put him to.

Chairman.

676. I suppose there was no provision for a pension in your agreement with your present employers, was there?—None.

Mr. T. W. Russell.

677. Your present employers are not the Government?—No, they are not; they are appointed by the Government.

Mr. Coddington.

678. What was the greatest amount of toll collected in any one year on this navigation?—I have not taken a collective view of it for these last 15 years, but it has been done by the Royal Commission. The average annual earnings of the men amount to 70 l. a year.

679. Is the traffic increasing or decreasing?—It is nearly the same for the last 15 years.

680. How do you account for the fact that there is so small a traffic on this navigation; is there any reason for it?—Indeed I do not know. It is not a very populous district along the river, and there are not many people to be supplied, except what can be supplied from provincial towns around.

681. Still, there must be a great deal of heavy traffic between Coleraine and the various districts in this watershed; how does that traffic principally go?—It goes round by Toome.

682. Does it go by railway?—Yes, by the Derry Central, and by the Northern Counties.

683. Is the reason why the traffic on the navigation is so small that the railways carry cheaper?—No, I think not. There are no boats prepared to carry traffic.

684. It is an extraordinarily small amount of traffic?—Certainly. It is capable of doing a great deal more work, provided it was properly patronised.

685. Are the rates too high?—No; we only charge 8 d. for each fishing-boat going through each lock.

686. What are the rates for barges carrying cargoes?—There have been no barges in my time there, except what I have used myself.

687. Nothing but fishing-boats?—There is no heavy traffic. Several lots of timber came down a year back.

688. But that comes down in rafts, does it not?—Yes.

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689. And

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MR. GRAHAM.

[Continued.]

Mr. Coddington—continued.

689. And there is no barge traffic up the navigation?—No; there is nothing but what I have been the means of causing myself, by bringing coals for the use of our dredger.

690. Supposing that there were a number of barges put on the navigation, would they be able to do any business?—That would depend upon the public. If the public would encourage it or patronise it, there might be plenty of trade on the river. It is not for the want of accommodation; there is every accommodation for traffic, provided it was properly patronised.

Mr. Coddington—continued.

691. Supposing that barges were put on this navigation, would the owners of those barges have to pay anything in addition to the toll for going through the locks?—That is a matter for the trustees. There is a certain scale laid down by the Board of Works, a farthing per ton per mile upon certain materials.

692. That is prohibitory. I believe that if the trustees found that reducing the toll would give encouragement to the traffic, they have power to do so.

Colonel HENRY STEWART BRISTOLF BRUCE, sworn, and Examined.

Mr. O'Neill.

693. YOU live on the Bann, do you not?—I live on Lough Beg, which is on the Bann.

694. And you are a member of the Lower Bann Navigation Trustees?—Yes; and of the Lough Neagh Drainage Trustees.

695. And you are also the lessee of the eel fishery?—Yes.

696. You have a steam yacht, have you not?—I have a small steam yacht.

697. And you often go up and down the river, and you know it perfectly well?—I know it perfectly well.

698. Have you read this Bill?—Yes; I have gone through it.

699. In the first place, of course you know that a great deal of the land in the neighbourhood is liable to floods?—Yes.

700. Do you think that something ought to be done to relieve those lands of floods?—I think so; but it should be done at the expense of the Government, because we have already paid for it.

701. You think that something ought to be done?—I think something ought to be done, certainly.

702. And you say that you think the Government ought to pay for it?—Yes.

703. Will you explain to the Committee why you think so?—Because 40 years ago, or very nearly so, the Board of Works commenced the drainage of the river Bann at an enormous cost, 240,000 l. or 250,000 l. At the expiration of about 10 years, in 1858, they put on what I think a very heavy tax. I had to pay nearly 200 l. a year myself for 20 years. That expired in the year 1888. I myself was charged for some 550 acres of what they call "intake" on Lough Beg; I call it "take in," because I never saw it yet. I have seen about 300 acres of it, and that only for about four months out of the 12. We use it for grazing, but 48 hours rain will flood the whole place, and drive the cattle away altogether; and if we do not happen to have high land adjoining in grass, these cattle have to be sent home, and the consequence is that we lose everything. Therefore the intake is practically worth nothing; but we have paid for it, as I say, a very heavy tax for 22 years. By this Bill we shall only get what we have already paid for; and I object to paying for it twice over.

704. Do you think that people in other parts of the benefited lands, or lands which are sup-

Mr. O'Neill—continued.

posed to have been benefited, are in the same position as you are?—Exactly the same. I speak only of the Lower Bann.

705. A great deal of the land which we have to deal with is about Portadown, is it not?—Yes. This Bill, of course, will keep the water low at Toome Bridge, and therefore will relieve them; but having paid for it already I consider that we ought not to have to pay for it twice over.

706. And you think that neither the people who are in the specially benefited districts, nor the people in the catchment area, should be taxed?—I think that nobody should be taxed for doing a thing twice over. Had the Board of Works done the works properly, which it can be easily proved that they did not, this Bill would not have been necessary; but the Board of Works never completed the works. It was laid out by Mr. McMahon, and he died, and Mr. Otley carried out the works. After expending all the grant from Parliament they had to go back to Parliament for another grant. They got that and spent it, and then their works were unfinished, and they are unfinished at the present moment. There are miles of what they call stanks, stone walls, in the bottom of the river at this minute, which keep back the stream. They have large enough powers to do it, but they have not the money to do it with. In going down the river with my steam launch, if I did not know the river well, and it was not marked by posts, I should have run on to these walls. I have lost two propellers already, and we could not go down the river at all without knowing it well.

707. You think that the Government ought to give the whole of the money, and that there should be no taxation?—Decidedly.

708. Do you think that the navigation ought to be maintained, or that it should be done away with?—I think it would be a very great pity to away with it. I think that both the drainage and the navigation can go on together perfectly well. There cannot be navigation, because there is a great block at Coleraine in the shape of a bridge that a vessel cannot pass. If there was a swivel arch at Coleraine bridge you could bring a lighter of 150 tons across from Whitehaven or Liverpool, and take coals right up to Toome Bridge. That would cut down the rates on the railway. I myself pay now 8 s. 7 d. per ton

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Colonel BRUCE.

[Continued.]

Mr. O'Neill—continued.

ton for coal to Toome Bridge, and I have no doubt that I could bring them across from Liverpool for 6s.

709. You think that a ship of 150 tons could go up the Lower Barr to Toome?—I think so.

710. In the present channel?—The present channel should be eight feet; that is the nominal channel.

711. Do you approve of the idea in this Bill to reduce the size of the channel?—No, I should say not if there is a swivel arch at Coleraine to let vessels through. You could not do with anything less than eight feet. The locks are 120 feet long, and 20 feet wide, and that would hold a long vessel.

712. Unless you put a swivel arch into Coleraine Bridge navigation is of no use?—Where are you to get navigation from? There is no commercial work between Coleraine and the inland towns; it is between England and Scotland. When I go to Coleraine in my steam-launch, I am obliged to wait there till the tide falls very low, and lower my mast to get under. Of course, cross-channel vessels do not lower their masts; and even if they did they would have their funnel. If there was a drawbridge at Coleraine there is nothing to prevent navigation going on the same as it does in the Ulster Canal, and in the Lagan Canal, and every other canal.

713. Then you think that the idea in this Bill should not be carried out of reducing the channel?—Certainly not if there is a swivel arch put in at Coleraine.

714. You would recommend that?—I should recommend that; and then there would be navigation. How can there be navigation when there is a great block at Coleraine, which no vessel can pass?

715. As to this question of embankments, upon which there seems to be some difference, have you formed any opinion?—I do not know anything about the embankment, and I did not know there was to be one, because I have not seen any plans.

716. Are there any suggestions that you wish to make about this Bill?—The only suggestion that I have to make is, that if it is carried out we should not pay anything for it, because I consider that that would be paying for a thing twice over, which I think is most unfair and unreasonable. I paid upwards of 4,000 l. for that last drainage, 150 l. a year for 22 years, and I got very little benefit from it, because, as I say, 48 hours' rain covers the whole of the flat lands.

Mr. T. W. Russell.

717. You live in the specially benefited area do you not?—Yes, I live on the banks of Lough Beg. You passed over the other day and saw it.

718. You think that the Government ought to do the whole of this?—Yes, I think so, certainly. I have been of that opinion all along. The Government should have been applied to to complete the works.

719. What have you in your mind as constituting the Government in this matter?—I mean the Board of Works.

720. But when you call upon the Government 0.129.

Mr. T. W. Russell—continued.

to provide money for completing the drainage of the Barr, what constitutes the Government in your mind for such a purpose, because they will not get the money at the Board of Works offices in Dublin; where will they get it?—They would vote it, the same as they voted this 20,000 l.

721. That is to say, from the British taxpayers who live in Cornwall or Devonshire?—Yes, for this reason, that the Board of Works undertook to do certain things 40 years ago, and they put a tax upon the country to do those things. They never completed them, therefore I say that they took our money, and did not give us what they ought to have given us in return.

722. You will admit, I presume, that all engineering works of any great magnitude are liable both to misconception on the part of the engineers, and to accident?—Yes; but I think that they should complete a work if they begin it. If they built a house, and did not put a roof upon it, it would not be of much use; and instead of making this river navigable they have made it the most dangerous navigation, and one that no person can go up and down without a pilot.

723. That I quite admit, for I stuck twice the other day?—And in a boat that does not draw so much water as mine.

724. Assuming that the Government will not provide any more than the free grant of 20,000 l., do you think it a fair principle to tax the catchment area?—Certainly, because if it was not for the water coming down from the hills, we should have no floods at all, because the water that falls upon the injured land would never cause a flood of any consequence. When the water comes down from the mountain lands it floods us.

Chairman.

725. Is it not a fact that the Government, that is to say, the taxpayers of the three Kingdoms have already given 108,000 l. towards the expenses of this work?—Yes, 40 years ago. This would make 128,000 l.

726. As regards the swivel bridge that you suggest, I suppose there is no prospect of that being constructed unless the Coleraine people are compelled to do it by Act of Parliament?—I do not know whether they are compelled to do it or not; but I was informed by a gentleman the other day, who lives close to it, that when the bridge was built, preparations were made so that a swivel arch can be put in at any time; that the abutment was built strong enough for a swivel arch.

727. I think I heard you say that the principal trade that would come, if the bridge was big enough, would not be from the town of Coleraine?—No, from Scotland or England; coals or timber, or whatever we wanted. When I bring coals over I bring them to Larne and have to rail them the whole way from Larne.

728. Therefore, so far as the Coleraine people are concerned, it would be rather against the interest of the merchants there to have the navigation?—I do not see that it would do them any harm at all, because we do not get our goods from Coleraine; I get my coal to Larne and there by the Northern Counties Railway.

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729. From

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Colonel BRUCE.

[Continued.]

Mr. Coddington.

729. From Larne to where?—To Toome Bridge.

Mr. Cox.

730. By Ballymena?—No, not near Ballymena; it does not go to Ballymena at all; it goes past Antrim, and then there is a junction.

Mr. Coddington.

731. You said, did you not, that you thought the Government should pay the whole of this expense?—Yes.

732. Supposing that the Government declines to pay the expense, what then?—Then I should be opposed to doing it all.

733. You would let those lands be continually under water?—Yes, rather than pay another tax for 40 years. Having paid one tax for 23 years, I think it is rather too bad to have to pay another tax for 40 years for the same thing.

734. You said, did you not, that it cost you 8 s. 7 d. per ton to bring coal up to Toome?—From Liverpool, 4 s. to Larne, and 4 s. 7 d. on from Larne to Toome.

735. Is that the carriage or the cost of the coal?—That is the carriage; it has nothing to do with the cost of the coal; I have no doubt that I could bring it from Liverpool for 5 s. to Toome Bridge by water carriage.

736. That is if this canal was made navigable for boats?—Yes. The only boat on this navigation was a little steamer called "Kitty of Coleraine," and she merely trafficked with Coleraine; there was very little traffic between Coleraine and those places, because you had to transfer everything on the other side of the bridge.

737. Is there no other way of coming to Toome?—Yes, you can come by the Lagan Canal, or by the Ulster Canal; but the Lagan Canal is impeded by a great many old bridges. I think there are 27 bridges on the Lagan Canal, and you cannot get anything but common canal lighters and things of that sort. The bridges are very low and old-fashioned.

738. The cheapest way is to come by Larne at present?—The cheapest way is to come by Larne, and the Northern Counties have the command of all that, and they can charge us what they like.

Mr. Phillips.

739. Did I correctly understand you to say that you are a landowner?—Yes, I own land on both sides of Lough Beg.

740. Just in this special district which is supposed to be benefited by this scheme?—Yes, for which I was charged for 550 acres. It is not covered at this minute, but in the winter it is all covered for eight months.

741. What is the rental of good land along the river that is not liable to be flooded?—On the Derry side of the river my land lies high, and most of the tenants went into court. It was 17 s. 3 d. per acre before they went into court, and it was reduced to about 12 s. 6 d., and that is the rent at the present time. It all bears wheat, flax, and oats, and there is no bog land in it at all; it is all arable land. The Commissioners reduced it to 12 s. 6 d. an acre, and besides that, I had to give 1 s. 8 d. in the £. last

Mr. Phillips—continued.

year by the Act which was passed two years ago.

742. What is the present rental of similar land liable to be flooded along the river?—On the Antrim side of the lake my land is low, and a great deal of it is liable to be flooded, and the average rent of it is 10 s. per acre. Very few of the tenants went into court, the rent was so low; I think seven or eight of them did go into court, and they got it reduced to about 8 s. per acre. That is the land that is flooded. The rent of the higher land that was not flooded was about 12 s. per acre.

743. What do you consider would be the additional value given to your low land which is liable to be flood, if this drainage scheme were carried out and proved to be a success?—The low lands with the exception of what they call the intake would not be benefited at all I think, because the water is low enough in the winter to vent the water out of the river. I have only known one flood run back into the river during the last 10 years; that was in the flood of 1877.

744. I suppose that if this scheme were carried out it would be some benefit to the low lands?—It would be very little benefit to the low lands that I speak of, because the present depth of water is quite sufficient for them. It might perhaps give me my 550 acres that I was promised 30 years ago.

745. Do you mean that the land is worth nothing at all now?—What I mean is that they charged me for 550 acres of intake, as if they had released that from water; but they never realised more than 300 acres, although I paid for 550 acres. I say that this might give me the 550 acres.

746. As to this 550 acres of intake, as you call it, what do you get for that at present?—It is a sandy ground that grows a rough kind of grass, and we take on cattle by the month or six months upon it.

747. What do you make now upon that 550 acres?—Very little in the last three or four years, because the cattle were so scarce in the country. At the very outside I did not make 50 l. a year of the whole thing, because I never saw more than 300 acres of it; the water was never lowered to the point they intended to lower it to.

748. Supposing that you got the full advantage of the drainage under this scheme, what do you calculate that that land might be worth in future, if it was never liable to be flooded at all?—It is a question whether it might make meadow in that case, although the grass is of a very peculiar kind, so peculiar that I cannot get any one to give a proper name for it. I have sent samples of it to one or two seedsmen to try if they could name it, but they did not know what it was; and they sent it to Holland, and they gave it there some kind of name; they called it a kind of water grass. It would not make hay.

749. Supposing that this land, after the drainage, becomes meadow, what do you estimate it would be worth then?—I never made an estimate, because it is always liable to be flooded, unless they embank it. I do not think there is any scheme for embankment here at all along Lough Beg, and therefore no matter how much they lower

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Colonel BRUCE.

[Continued]

Mr. Phillips—continued.

lower the level it will always be liable to be flooded.

750. Supposing that the scheme is a complete success, and that these 550 acres of yours are never flooded, what will it be worth then?—If fully stocked it might be worth 70*l.* or 80*l.* a year. The grass is such a bad quality that it would not make hay at all. The grass is more like a kind of bent than grass.

751. Your land is in the area most liable to be benefited, is it not?—Yes, just along the side of Lough Beg.

752. And yet, if I understood you aright just now, you said that if you had to contribute anything towards this scheme you would rather have no drainage at all?—I would rather have no drainage at all than pay another penny.

753. Is that the view of most of the tenants?—That is the view of all the farmers that I have heard speak about it. They would rather have no scheme at all than pay a penny more.

754. They would rather have no drainage than pay any tax?—Yes, and they say, "If the Government choose to do it they may, but we will pay no more tax."

Mr. Morrison.

755. Are these intakes embanked at all?—Not at all. The land is as flat as this table, and 48 hours of rain will flood the whole place with two or three inches of water, and then, of course, the cattle have to be driven away. If you have not high land alongside, the cattle must go home, and then you are liable to an action for not fulfilling your contract. My neighbour, who has the intake, was, two or three years ago, obliged to send all the cattle home, because he had no land alongside of it.

756. Your grievance against the Board of Works is that they did not finish the scheme?—Yes.

757. Was not that a question of money?—It is a question of money, but still they made us pay for it all the same.

758. Then your grievance is that they did not tax you enough?—My grievance is that they undertook to do a certain thing which is laid down in black and white. That certain thing they did not do, and yet they made us pay the bill, and a very big bill too.

Mr. Pinkerton.

759. Am I to understand that you are in favour of maintaining the navigation works in the river?—I would maintain the navigation works, and I would put sluices in all the weir walls, and that would let away the floods as they come down.

760. Did I correctly understand you to say that the cost of the carriage of coals from Liverpool to Toome would be 5*s.* per ton?—That is what I think it would be.

761. Are you aware that the cost of carriage to Coleraine at the present moment is 6*s.*?—I do not know what it is to Coleraine.

762. Are you also aware that they charge another shilling for barbour dues, which makes it 7*s.* to Coleraine?—No, but I know that I have paid myself 3*s.* 6*d.* and 4*s.* to Larne.

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Mr. Pinkerton—continued.

763. Consequently you would only have a shilling left to take the coals from Coleraine to Toome Bridge?—I would bring them from Liverpool or Whitehaven direct.

764. Are you aware that the cost of carrying coal to Coleraine at the present moment is 6*s.* per ton?—I was not aware of that.

765. And then 1*s.* for barbour dues?—The barbour dues are at Portrush, I suppose, not at Coleraine.

766. That would make the charge 7*s.* per ton. You would only have 1*s.* per ton left to take the coals to Toome Bridge. What is the depth of the water from the head of the arch at Coleraine Bridge?—I believe there is 14 feet of water at low water. I believe the arch is 8 feet high water.

767. What would the height of the arch be at low water?—I cannot tell you that; I do not live at Coleraine. I was told that there was 14 feet of water at low water, and at high water there was 8 feet between the water and the arch.

768. Do you think that the reason why the Coleraine people abandoned the powers in the Bill of 1879, of constructing a wharf in the arch, was to prevent the trade passing from Coleraine, and not calling there?—I do not see why they should want to do it.

769. What other reason could you give for the Coleraine people giving up that part of the scheme?—I do not know; I never heard of it; I never knew that they did it.

770. Do you think that a trade from England or Scotland passing Coleraine would benefit the people of Coleraine?—Those towns that I spoke of, Portlough and Toome Bridge and Killybegs, have no traffic at all with Coleraine that I am aware of. It would injure the Northern Counties Railway, because, instead of getting our coals by it from Larne, we should get them by water. When there is water traffic, it cuts down the railway rates. There is no railway within four or five miles of Portlough on one side, and seven miles on the other.

771. To what do you ascribe the abandonment of this scheme in 1879, for the construction of the wharf in the arch of Coleraine Bridge?—I do not know anything about the Coleraine affairs.

772. You are opposed to all further taxation?—I am opposed altogether to all further taxation.

773. How do you reconcile that with the statement that you were in favour of the catchment area becoming contributory?—If the works are carried out, I say they ought to pay for them as much as we ought.

774. You say that the farmers within the benefited district are opposed to paying another penny?—Along the Bann since I have been told by several of them that they would pay no more tax.

775. If that was the opinion of men on the benefited lands, do you not think that men on the unbenefited lands have a far stronger reason to be in favour of the rejection of this measure?—I should think none of them want to pay any more tax, it would be very unnatural if they did. I think

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Colonel BRUCE.

[Continued.]

Mr. Pinkerton—continued.

think it would be a monstrous thing to put another tax upon us after we have paid one for 22 years; and if the Board of Works had done their work, there would have been no necessity for this Bill at all.

Mr. Littler.] I think that if an attack was to be made upon Mr. Manning's department it should have been done through your counsel when Manning was in the box. Mr. Manning had nothing to do with it; he was not the officer who carried out the works.

Mr. J. D. Fitzgerald.] I do not represent Colonel Bruce, but Colonel Bruce was the witness whom I proposed to call for Mr. O'Neill with reference to the Teeme fishery; and, if convenient, I would examine him now upon that point.

Chairman.] That is a separate part of the inquiry, and we had better deal with it separately.

Cross-examined by Mr. Littler.

776. Are you aware that supposing the Coleraine people should consent or arrange to make the bridge, a swing bridge, or a draw-bridge, then by the arrangements which are made, the seven feet of water can be restored in the navigation?—I do not see why it should not be restored.

777. Supposing that the Coleraine people arrange so that the navigation can be restored at the bridge, were you aware that there would be no difficulty whatever in simply putting in sluices instead of weirs; were you aware also that to do that now would cost 10,000 l., without any adequate benefit until the swing-bridge is placed at Coleraine.

778. That is, to put in the sluices?—Are you aware that if we were to provide for the navigation which is now useless, it would cost 10,000 l., and of course the interest on 10,000 l. until such time as the Coleraine people think fit to make that swing-bridge?—I think you are not doing anything until the swivel-bridge is put in.

779. Do you think it is worth while to spend that 10,000 l. until it is clear that the Coleraine people will put that arch there?—But putting the sluices has nothing to do with the navigation.

780. Let me put this to you: that the navigation can be restored at any moment that it is necessary to restore it, that is to say, if it becomes necessary, by Coleraine putting in a swing bridge; but that to provide for the navigation now would be putting 10,000 l. more taxation upon you; would you like that? What you would have to find would be 75,000 l. instead of 65,000 l., if the navigation is improved in the way you want; and I understand that you object to being taxed at all?—Yes.

781. Then you would object still more to 75,000 l. than to 65,000 l.?—I object to a tax of any sort; but I say that, by reducing the walls and putting in the sluices, the result will be to lower

Mr. Littler—continued.

the water that comes in and floods the lands, and has nothing to do with navigation.

782. If we were to protect the navigation we should have to so alter our sluices instead of weirs that we should have to spend 10,000 l.?—Putting in the sluices would not alter the navigation at all.

783. I daresay my engineer and I are both very foolish, but would you mind assuming that to re-arrange the works, so as to admit of navigation now, would cost 10,000 l.?—I could not admit that it has anything to do with the navigation whatever, because it has not.

784. Will you assume for one moment that it would cost 10,000 l. more to provide for a possible navigation?—No, I will not. I will assume that it may take 10,000 l. to put in the sluices, but that has nothing to do with the navigation.

785. Wiping the sluices and weirs off your mind, if it would cost 10,000 l. more now to provide for the navigation, which is dependent upon Coleraine in the future altering that bridge, is it wise to spend the 10,000 l. now?—I do not think it would be; but I do not see what the 10,000 l. would go for. The sluices are the only things that would have to be altered.

786. Were you aware that the very reason why the Government proposal is to put a comparatively small sum on the injured lands is, because of the large sum that they have been paying in taxation in the past? 8,000 l. is put on the injured land in addition to that share of the 37,000 l. which is put on the catchment area, and some people have been complaining that it is too small; were you aware that the reason why it is put at that comparatively small sum is, because of what you have had to pay to the Board of Works in the past?—No, I am not aware of anything of the sort.

787. If that is so, does it not sound rather equitable?—No, I think there should be no 8,000 l. put on any other sum.

Mr. Cox.

788. Supposing that a swivel bridge were put in at Coleraine, the navigation could not be carried out without removing these stone slanks, could it?—Yes, the navigation could be carried on by a pile, all these stone slanks being well marked by a post. They are marked now, but sometimes in winter the marks disappear in a flood. There is nothing to prevent a vessel going up if it passes Coleraine, though the navigation to Curts is very imperfect. When I go down in my launch, I have to wait until within about two hours of high water to go to Coleraine. There is a shoal there.

789. Could you give any estimate as to the probable cost of removing these slanks which the Board of Works left there?—I have not the remotest idea. There are a great many of them. There are stone walls in the bottom of the river, nothing more or less.

Chairman.

I think we have now examined all the Witnesses who have been summoned.

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Colonel THOMAS WARING (a Member of the House), sworn; and Examined.

Chairman.

790. WHERE do you reside?—I reside at Waringstown, rather less than four miles from the lake.

791. Do you wish to give some evidence as coming from that part of the district?—I wish to give evidence in favour of the Bill with regard to the flooded lands in the neighbourhood of Portadown and Lurgan, which we think would be very much benefited by the proposed works being properly carried out.

792. Do you consider that the value of the land to the occupiers would be considerably increased if those works were successfully carried out?—I think if we can be secured that the water will never rise above summer level, the value will be considerably increased. We were promised that at the time of the original works, and for a short time the promise was kept; but in consequence of matters of which I have no personal knowledge the works ceased to be efficient after some years.

793. Could you give the Committee any kind of estimate as to what extent the value of the land to the occupiers in your district would be improved?—I should think that if you could secure us altogether from floods, except in accidental cases in winter, you would certainly make a difference of 5s. an acre upon the lands which are at present liable to be flooded.

794. Is the general feeling in your part of the country in favour of this Bill, so far as you have been able to ascertain it?—I think the general opinion depends upon how much their own pockets would be affected all round.

795. Assuming that the calculations of the engineers are correct, and that 1d. in the £. for the catchment area is a fair estimate, do you think that people generally in your part of the catchment area are willing to incur that expense?—I am perfectly certain that the catchment area people, if you speak of them in contradistinction to the flooded land's people, will utterly object to pay anything if they can help it; but I think it is most unreasonable to do so.

796. As to the people whose lands will be benefited, do you consider that they regard this 8,000*l.* as an excessive tax upon them?—No, I should think not; I do not think it is unfair, although of course I coincide to a certain extent with Colonel Bruce, that the work ought to have been thoroughly done in the first instance when we were taxed, as if the work had been thoroughly done. I myself paid 40*l.* a year for 22 years for land which was certainly benefited, but not at all to the extent that it was estimated.

797. But still as the whole you are prepared to accept the Bill?—On the whole I accept the Bill as the best thing that we are likely to get.

Mr. Coddington.

798. Would you approve of the Government paying the whole expense?—Certainly, if I saw any chance of it.

799. Is the land that you refer to between the red lines?—The land that I refer to is in the southern portion of the lake, near Portadown and Lurgan.

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Mr. Phillips.

800. Are you yourself a landowner?—I am both an owner and an occupier of lands affected, both in the flooded areas and in the catchment area, which would be charged, but which would not be flooded.

801. As I understand you will not have to pay as a landlord in this benefited area, but you will have to pay for the land which you yourself occupy?—Quite so; but I had to pay as a landlord for the maintenance of the old works a considerable sum per annum.

802. You said just now, did you not, that the specially benefited lands would be benefited, in your opinion, certainly to the extent of 5s.?—I think the better class of them would. Some of it is run out bog, which would not be worth 5s. in the end; but wherever there is a good class of land liable to flooding, it would be benefited to the extent of 5s. per acre.

803. And some of it, I suppose, even more?—I would not be surprised at some of it being benefited even more than that.

804. With regard to the general feeling in the district, taking the Bill as it stands, supposing that the people had not realised that they would have to pay something, would they have approved of the Bill, or would they rather that there was no Bill at all?—The catchment area people who are not benefited would certainly rather there was no Bill at all. Among those who are benefited there would be a difference as to the amount of faith that they had in the promises of the engineers.

805. They would not believe implicitly in what the engineers said?—Their previous experience would not lead them to do so.

Mr. Cor.

806. You say that you approve of the scheme as being the best that you are likely to get; have you in your mind a possibly better scheme?—Do you mean engineeringly better?

807. Take it on the whole?—I do not profess to have studied the engineering part of the question sufficiently to be able to give an answer to that. I do not see any chance of doing so, but I should have no objection to getting it done for nothing if I could.

808. But the great thing is, when it is going to be done to have it done properly, to the satisfaction of all parties?—I hope it will be done thoroughly this time.

Mr. O'Neill.

809. Did you hear Colonel Bruce say that he would rather have no further drainage at all if he had to pay anything, and that that was the opinion of the farmers about him?—Yes, I did.

810. Is that the opinion of the farmers in your neighbourhood?—Certainly not. We would rather have the Bill and pay for it than have none.

Mr. T. W. Russell.

811. Do you see any chance of the evil being remedied at all if this Bill is thrown out?—I fail to see how it is likely to be remedied.

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Colonel WARING, M.P.

[Continued.]

Mr. T. W. Russell—continued.

812. Are you in the catchment area?—I am both in the catchment area and in the benefited area; that is to say, a portion of my estate is in the catchment area, and I happen to have in my own hands the greater portion of the benefited area, which is, in fact, the only portion of the benefited area which belongs to the county Down.

813. Are not these floods very bad about Portadown?—Very bad indeed. I have also a good deal of knowledge upon the question from being one of the trustees upon the Upper Bann Navigation, and for the last 22 years I have always been chairman when I have been present.

814. As to the people in that neighbourhood, have you any doubt as to what their views are?—The opinions are very mixed; but I think the majority are in favour of the Bill.

815. Are you aware of any meeting having been held in Portadown upon this subject?—I am.

816. What was the result of that meeting?—I believe the opponents of the Bill failed to establish their case, and the meeting evaporated.

817. Was a resolution carried in favour of the Bill?—A resolution was carried in favour of the Bill in the end.

818. You say that you live in the catchment area?—I do not absolutely live in the catchment area, because the actual house and demesne are in the catchment area of the Lagan, but a considerable portion of my property is in the catchment area of the Bann.

819. That being so, do you approve of the principle of taxing the catchment area?—Certainly; I think it is only fair if we look for Imperial assistance that we should give assistance to our neighbours in the lower grounds; and I think it is very desirable to limit it in some shape.

820. Do you not think that if it were put in the Bill that the taxation was not to exceed 1*d.* in the £., that would do away with the entire opposition to it?—I cannot say that it would do away with the entire opposition to it, but I think it would do away with all reasonable opposition to it.

821. Do you not think that previous experience not only in deficient engineering but as to taxation in these matters frighten those living in the catchment area, and that if it were directly put in the Bill that the taxation was not to exceed 1*d.* in the £., that would obviate all reasonable opposition?—A great deal of the opposition is not reasonable, but I think it should obviate all reasonable opposition.

Mr. Cox.

822. Can you give us any opinion about the fisheries?—I can give you no evidence with regard to the fisheries how they will be affected by the drainage at all, because the fisheries in my part are only pollack fisheries.

Mr. Pinkerton.

823. You talked about unreasonable opposition; are you aware that the County Antrim Grand Jury have passed a resolution against the Bill?—I have not heard what the County Antrim Grand Jury have done.

Mr. Pinkerton—continued.

824. Are you also aware that the County Derry Grand Jury yesterday passed an unanimous resolution against this Bill?—I have heard you say so since I came into this room.

825. Would you regard that as an unreasonable opposition on the part of the grand jury?—I suppose they had their reasons for doing it. I cannot say what the County Derry Grand Jury or the County Antrim Grand Jury might do; they have done many things that I did not approve of before now. I said nothing about the County Down Grand Jury.

Mr. Coddington.

826. Is the Upper Bann a river with a very slight fall?—The latter portion of it, of course, has not a very great fall. From Portadown down it is almost level; in fact, the fall of the Lower Bann ceases to be anything like sharp from above Gifford in County Down or Tandragee.

Mr. T. W. Russell.

827. Do you not think that Mr. Gamble's proposal to sluice Portna weir would be the best means of doing what is requisite?—That is an engineering question.

Chairman.] We have finished all the witnesses who have been summoned to give evidence on the question generally, and therefore we come now to the opposition of the various persons who have petitioned against the Bill, and who are represented here by counsel. It was settled yesterday that Mr. Pope was to have an opportunity of seeing the plans and estimates; I do not know how the case stands now as to that. Have you anything to say, Mr. Lither?

Mr. Lither.] What has been done since yesterday is this: that although the Government are tolerably satisfied, and I think the Commission were very well satisfied that no injury is likely to accrue either to the salmon fishery or the eel fishery, as they are undoubtedly extremely valuable interests, and valuable in a public sense as well as mere property, because of course they provide a considerable amount of food supply. I am instructed to say that we are prepared, with the approval of the Committee of course, to insert some Clause in the Bill which will have this effect: that if the salmon fisheries or the eel fisheries are damaged by the works, and not only damaged by the works in the sense of the Lands Clauses Act, but by anything which might be rendered the subject of an action, we should be prepared to submit to a Clause introduced by the Committee, providing that any such damage, if it did arise, should be met one-third by a supplementary grant from the Government, and the other two-thirds by taxation upon the benefited area, because the benefited area will have the administration, and it will have three-fourths of the representation, and therefore they ought to be directly responsible for anything which is done by their representatives; but the

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the Government will be prepared to come in aid of it. Exactly as they have come in aid of the general fund, they would come in aid of any special fund imposed upon the benefited area in the same way, to the extent of one-third. That has been communicated to the other side informally; we have had no formal response.

Mr. Pope.] I do not mean to say that there has not been a rumour of something of something of the kind, but we have had no official communication.

Mr. Little.] You are quite right about there being no official communication. First of all, that proposal is strong evidence of *bona fide* conviction on the part of the engineers that no such contingency will arise; and, secondly, if it does arise, we take care that those large proprietors and those who are largely interested in what is a food-producing industry, and an industry which, of course, assists the whole population of this part of Ireland, should not be injured.

Mr. Pope.] The only question that I will ask my learned friend is whether he has considered the extent to which the compensation is to apply. He used the word "works." You know that by Section 11 of the Bill a great deal may be done by the new board (we do not know what, and nobody knows what; of course it will be in their discretion), which might be more injurious to the fisheries than the construction of the new works. For instance, by

Section 11, the Commissioners are to have the power of varying the embankment and works, or of deepening, widening and straightening, embanking, and otherwise improving the water-courses or outfalls, and of removing any mill dam, navigation weir, fish weir, all weir, sluice, or other obstruction to any water-course, and so on; and of making any new water-course or outfall for water, and of erecting any new embankment; and further, they may, if they choose, provide for the abandonment of the navigation altogether. If my learned friend means compensation for any damage resulting from the execution of the powers of the Act, then I think I should be content, because if it should be necessary—

Mr. Little.] I will relieve my learned friend, Mr. Pope. I think that ought to be so.

Mr. Pope.] Then in principle we are agreed, and therefore I do not intervene on the preamble.

Mr. Little.] Our desire is not to put in an illusory clause, but an honest one. As my learned friend is disposed of on the preamble, I think the only thing I need do is to recall Mr. Gamble to explain one or two points which have arisen, because we had no means of being aware, in the usual way by petition, of what some of these gentlemen would say, and I think probably it would be satisfactory to them to hear what Mr. Gamble has to say.

Mr. JOHN GEORGE GAMBLE, recalled; and further Examined.

Mr. Little.

Mr. Little—continued.

828. To get rid of one isolated thing which has arisen within the last few minutes, with regard to Colonel Bruce's fear, if the Coleraine people will arrange to make that bridge a swing-bridge or draw-bridge, can you then restore the seven feet of water?—Yes, we can restore the seven feet of water.

829. But it would be by an expenditure of about 10,000 l.?—We should have to put in sluices. At present we propose to cut down the weirs, so as to let the water go over the weirs; but to keep up a seven feet navigation, we must put sluices in the weirs, and let the water go through the sluices instead of going over the weirs.

830. And the difference would be 10,000 l. in your calculation?—Yes.

831. Would there be any use in doing that unless and until the Coleraine people had made some arrangement about a swing bridge?—I think not.

832. In point of fact, I was right in putting it to Colonel Bruce that to maintain the navigation as he wishes would impose another 10,000 l. upon the area, supposing that the Committee passed the Bill?—Yes.

833. I think that disposes of that. Then there is a minor point, I think. I asked another question of Colonel Bruce as to the benefited 0.199.

area. One reason why the benefited area is restricted to an extra taxation of 8,000 l. is because of the loss which they have sustained heretofore by the non-completion of the work?—Yes.

834. That amounts, does it not, to only 10 s. per acre?—Yes.

835. As regards the most important question of all, I think, and that is the question as to the catchment area, it is the fact, is it not, that it is the steep streams in the hilly districts that do the mischief of causing sudden floods?—Yes.

836. If it were a more level country the water would not come down in the torrents that it does come down in, and the River Bann would flow equally, or practically equally, at most times of the year, would it not?—If it was a more level country there would not be so much sand coming down.

837. First of all, there is a great deal more water coming down. I am going to the sand next. The rapid rush of the torrents brings down enormous quantities of sand, does it not?—Yes.

838. And it is that sand that sits up the river and blocks the drainage?—Yes.

839. For example, the moyola, which comes down from Maghara, brings down a very large quantity of sand, which is deposited directly above

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Mr. GAMBLE.

[Continued.]

Mr. Lister—continued.

above and below Teague weir, is it not?—Yes.

840. As regards another point, the excavation and dredging, which has been done by the Bann Navigation Trustees, has been almost entirely, has it not, in one channel for the benefit of the navigation?—I believe so.

841. So far as you are able to judge from the descriptions that you have heard of what they have done, has that done much towards relieving the drainage?—Very little.

842. One other question which I think arises on some questions which have been put by some members of the Committee, that is as to the embankments. In this scheme the embankments are quite subsidiary, are they not, to the main works?—Quite subsidiary to the main works.

843. You desire them as being a convenient and advantageous portion of your scheme, but they are no integral portion of the scheme?—No.

844. What difference would it make to the effect of your works and the efficiency of your works, supposing the embankments were abandoned?—If we abandoned those embankments which are shown by the small red lines parallel to the river course between Carrnac and Agivey Beldge, the lands on each side would be flooded unless we excavated the bed, but we cannot afford to excavate the bed for the estimate; therefore we must either put the embankments or let the land be flooded. They are simply protections to the land. But the important portion of the river to be dealt with is between Lough Neagh and Portna Weir. Cleansing the river below will help those people below, but they are only 2,000 acres out of the whole 29,000.

845. The 27,000 acres are independent of the embankments?—The 27,000 acres would not be helped at all by the embankment.

846. In your judgment, although that is not an integral part of the scheme, is it a desirable part of the scheme, and one which makes it more complete?—Yes.

Chairman.

847. Have you anything to say with regard to the complaint which was made by Colonel Bruce that there was no embankment to Lough Beg?—There would be no difficulty in making embankments to protect the land in Lough Beg if Colonel Bruce's land is worth it. It is not part of the scheme; it is quite a detail.

Mr. Lister.

848. It might be carried out just in the same way as that below may or may not be carried out?—Yes.

Chairman.

849. Would it add much to the expense of the scheme?—I could not say. I do not know the extent of Colonel Bruce's land.

Mr. Lister.

850. With regard to another point at Carrnac, there is a weir and lock. At the present time that weir and lock have an appreciable effect in preventing the salmon going up, have they not?—Yes.

Mr. Lister—continued.

851. And therefore the lowering of the weir and lock instead of being a disadvantage would be an advantage to the salmon fishing industry?—It would be an advantage to the salmon fishery generally.

852. It might not possibly be of advantage to some of the Coleraine people below, but apart from that, taking the general advantage of the salmon industry, would that be an advantage that would be incidental to your scheme?—It would be an advantage to the river generally.

853. Supposing that the navigation were entirely abolished instead of the stream being partially lowered as you propose, would it be more difficult then to design drainage works which should not involve compensation to the fisheries?—Yes.

854. The navigation works assist the fisheries, do they not?—The whole arrangement of the fisheries was established at the time when the Board of Works finished the works, and the consequence is, that if we do not interfere with these works, we practically do not interfere with the fisheries. If we only slightly modify these works we are less likely to damage the fisheries than if we upset them altogether.

Mr. Pinkerton.

855. How would it affect the eel fishery?—If we were to use the lock passages it would interfere very much with the eel fisheries, I think. We should have to put fresh eel fisheries below those lock passages.

Mr. T. W. Russell.

856. You mean eel-traps?—Yes.

857. That is the point that I was trying to get out of Mr. Ellis?—Exactly.

Mr. Lister.

858. Attention has been called to the vagueness, as it is called, of the powers of this Bill; I think that is not unusual, is it; I will put in through you the Thames Valley Drainage Act of 1871, under which a very great deal has been done on this very river. Section 28 of that Act, the clause as to works, and as to cleansing, scouring, repairing, enlarging, deepening and improving the existing works, and making and maintaining any new watercourses, is almost precisely the same as that in our Bill. It is not precisely the same, but it is practically identical. You have the plans here, have you not, if any honourable Member wants to see them?—Yes.

Chairman.

859. This memorandum, which I dare say you have seen, and which is placed in front of the Bill, which has been distributed to honourable Members, I suppose, is based upon your calculations?—Yes.

860. It is stated, at page 3, of that memorandum that the maintenance charge upon the county cess will add about 1 d. in the £. to the grand jury cess in the catchment area; that is your calculation?—The interest on the capital and the maintenance together will equal 1 d. in the £. on the catchment area.

861. Will

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Mr. GAMBLE.

[Continued.]

Chairman—continued.

861. Will you explain to the Committee on what you base that calculation?—The estimate is from the Land Valuation Office in Dublin of the value of the different portions of the catchment area; and I have measured the catchment area, and found out what parishes and so on were included in it, and taken the valuation from the Valuation Office, and added that up, and I find that it comes to 1,278,000 l.; and 1 d. on that is rather more than enough to pay the interest on this capital and the share of the maintenance.

862. That is to say, that calculation is on the supposition that the whole of that 37,000 l. is exhausted and spent; it would be less than 1 d. in the £., of course, if the whole of the 37,000 l. was not spent?—Yes.

863. That is to say, the proportion of the 46,000 l. which it is provided by the Bill should be paid by the catchment area?—Yes.

864. Is there any power under the Bill of raising money in excess of this 46,000 l., of which 37,000 l. would be the share of the catchment area?—I think not.

865. Therefore, if your calculation is correct, it seems to follow that it would not be possible, under the powers of this Act, that the taxation of the catchment area should exceed 1 d. in the £.; am I right in that?—Yes, unless the Valuation Office have been wrong in their estimate.

Mr. Phillips.

866. Have you had anything to do with the division of the expenses; I mean the division of the whole cost of the scheme between the Government and the specially benefited area and the catchment area?—No; the Commission made a recommendation, but this is not the same as the recommendation of the Commission exactly. The Royal Commission made their recommendation, but this is slightly different.

867. Did you give any estimate yourself to the Government as to how much the flooded lands would benefit by the cessation of floods?—I did not propose any amendments on what the Royal Commission recommended.

868. While you were in the district, did you make it your business to find out at all what the present rental of the land in the specially benefited area is?—Not minutely at all, only generally.

869. Generally, what is it?—I did not consider that a question that was especially within my province. It was all practically settled by the Report of the Royal Commission.

870. Would it not be your province as an engineer to know how much good you were going to do to the land?—Yes, I endeavoured to ascertain that, but not with a special view to making any alteration, because I was instructed to draw out plans, and I was given a free hand as regards the plans, but I did not consider that I had any special free hand to amend the finance of the question.

871. The financial matters did not come within your province?—Not unless I had found that there was something specially wrong; I should then have submitted it.

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Mr. O'Neill.

872. Several of the witnesses have said, in connection with the embankments, that if they are put up they will keep the water back in the streams and the lands will be flooded; is that your opinion?—No, that will not be the case at all.

873. Does your plan contemplate embanking the streams?—The embankments will run sufficiently far up the tributary streams to prevent the floods from getting round the ends.

874. Then there is no validity in that objection?—No; there will be flap valves in the embankment that will let off the water that falls behind.

875. Do you remember what the embankments will cost under your estimate?—I have not got it separate, but it is a very small portion.

876. Have you before you the amount that 1 d. in the £. would come to?—Yes, over 5,000 l.; 5,300 l.

877. It is more than that, is it not?—That is the interest.

Mr. T. W. Russell.

878. Have the valuation department estimated the amount to be contributed by the catchment area?—My assistants made a map similar to that on the wall, and they took out all the parishes from the books of the valuation department that were inside that red line.

879. Of course the Commission under the Bill will have to define the catchment area?—They will have to make it much more accurate. That was simply drawn as well as we could.

The witness withdrew.

The Committee-room was cleared.

After some time the counsel and parties were again called in.

Chairman. The Committee have agreed to the preamble of the Bill. We propose now to go on with the clauses until we come to the place at which it is necessary to introduce any amendments which may be proposed.

The Clauses of the Bill were proceeded with.

Mr. T. W. Russell. Perhaps you could tell us, Mr. Littler, where the proposed amendments would come in.

Mr. Littler. In answer to your question, Sir, I think it would be most convenient after Clause 12. Of course that is a section which will have to be dealt with, with the assistance of the Treasury.

The Clauses of the Bill were further proceeded with.

On Clause 3.

Mr. Morrison. In line 37, are the words "the county cess of those baronies and townlands which are situated within the catchment area." I presume that if a proportion of the barony or townland is within the catchment area and a portion outside, you only levy upon the part inside?

Mr. Littler. Only on the part inside. It would be most unjust to make it otherwise.

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[Continued.]

Chairman.] Do you consider the words of the clause cover that view of Mr. Morrison's?

Mr. Cameron.] I think so.

Mr. T. W. Russell.] Could you insert after "townlands" the words "or such parts of those baronies and townlands," so as to make it clear?

Mr. Cameron.] Yes, it can be done.

The Clause was amended.

Mr. T. W. Russell.] I wish to raise the point of confining the taxation of the catchment area to 1 d. in the £.

Mr. Cameron.] I do not think that will arise upon this clause.

Mr. Lane.] I think Mr. Russell is right, because if the exact sum is the 37,000 l. which is mentioned here, the 1 d. in the £. question would come in.

Mr. T. W. Russell.] Then I must raise that, because in my opinion it would practically do away with the entire opposition to the Bill.

Mr. Cripps.] Are words desired to limit the charge to 1 d. in the £.

Chairman.] No, to limit the sum of 37,000 l. as the maximum to be charged upon the catchment area.

Mr. Pinkerton.] If you limit it to 37,000 l. you limit it to 1 d. in the £. I would move the insertion of the words "not exceeding 37,000 l."

Mr. Cripps.] That would carry it out as regards drafting.

Mr. T. W. Russell.] As the Bill stands now it reads in this way: "And charging a sum of 37,000 l." Would the charging of any further sum be possible under the Bill as it stands?

Mr. Cripps.] I do not think it would, but it would make it quite clear if the words "not exceeding" were put in.

Mr. Lane.] What I would respectfully suggest to the Committee is that it might be made clear by saying, "charging a sum not exceeding the sum of 1 d. in the £. upon the valuation of the said lands, or such other amount as shall not exceed 37,000 l."

Chairman.] We cannot put that in.

Mr. Cripps.] I think the words "not exceeding 37,000 l." would carry it. (This Amendment was therefore inserted.)

Mr. Claud Begganlay.] Before you pass Clause 3, I would call your attention to this point: that the sums which may be charged upon the specially benefited area and the county cess are specific and limited. I would only suggest that it is possible that there might be an inconsistency between this clause and the clause under which the money may be charged, which will provide the compensation, supposing it exceeds in the aggregate 65,000 l. I do not say that it cannot be worked all right, but I call attention to it.

Mr. Cripps.] The 8,000 l. is "a portion of the estimated cost of the proposed works," and it is so limited in Sub-section 2. Of course we shall have to deal with the compensation presently.

Mr. T. W. Russell.] My Amendment takes the shape of taking out the word "of," and inserting the words "not exceeding."

Chairman.] Have you any more amendments of this Clause?

Mr. Cameron.] No, I have no further amendment.

Clause 3 was passed, as amended.

On Clause 7.

Chairman.] What is the object of introducing the amendments proposed in this clause?

Mr. Lane.] The Board of Works considered that it would be desirable to do that. In reality it will make the charge of interest rather less, but inasmuch as the presentments of the county cess are made at each assize, it was considered that it would be more proper to make it from the date of the advance rather than from what may be a subsequent date.

Chairman.] I think that will be an advantage.

On Clause 8.

Chairman.] What do you say about this Clause?

Mr. Lane.] I have heard the evidence upon this matter. I made inquiry from the Board of Works, and I understood it always has been the habit in any drainage scheme, that similar power of taxation should exist, namely, that other lands in the possession of the same owners and occupiers should be taxed also, but I can give no further reason except that it has been the habit to do so.

Chairman.] As, I understand, the objection to it is this: that there will be a charge upon these lands, all the lands his property at the present time, but by and by a part of these lands deriving no benefit may pass into the possession of someone else, and will be taxed as if they were part of the benefited area?

Mr. Lane.] Yes.

Mr. T. W. Russell.] Is it a matter of security for the recovery of the charge?

Mr. Lane.] I believe it is. It does not increase the amount of the annuity.

Mr. Cox.] Why should they be chargeable?

Mr. Lane.] As a better security to the Board of Works.

Mr. Cox.] What is the land to be benefited?

Mr. Lane.] I understand what the Board of Works has to look to is, to get back the money

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money they lend, and it is not considered unreasonable that a man should give security of all the land he has for the payment of the debt.

Mr. Cox.] Supposing a man should sell the tenant-right of his farm to another man, would the incoming man be also liable?

Mr. Lane.] The land would be liable, not the incoming tenant.

Mr. Cox.] It practically amounts to the same thing.

Mr. Lane.] This is to give greater security to the Public Board of Works. It is for the Committee to consider whether the security should be given; it is because they have a charge not only on the lands specially benefited, which is all Section 8 has to do with, but also a charge upon any other land held by the same occupier, if the Commission think such other lands should be made chargeable for the debt. Therefore, it is an additional security for the principal money.

Mr. T. W. Russell.] Take a farm outside the specially benefited area, which is at present in the possession of the same man as the other chargeable within the specially benefited area; he sells the tenant-right of the farm outside the benefited area, and it

passes into the hands of another person altogether; is it your contention that it passes with it the encumbrance, and that that encumbrance should still rest upon it.

Mr. Cripps.] It would pass with it, the encumbrance after this Act had come into force, the encumbrance would be the first charge.

Chairman.] It would be better to postpone the clause and let the draftsman consider the question.

Mr. Lane.] We will assent to the arrangement to strike out any lands that are not in the district, but with great respect to Mr. Plunkerton, his amendment would hardly carry that out, because if they are within the district they would be taxed already.

Chairman.] I understand the Government will bring up an amendment to the clause.

Mr. Cripps.] We can strike out from the words "they shall" to "chargeable."

Mr. T. W. Russell.] This clause may affect other clauses of the Bill, and it is better that the Government should have an opportunity of considering it.

Chairman.] We had better stop at Clause 8, which is postponed.

Monday, 22nd July 1889.

MEMBERS PRESENT:

Mr. Coddington.
Mr. Cox.
Mr. Morrison.
Mr. O'Neill.

Mr. Phillips.
Mr. Pinkerton.
Mr. Plunket.
Mr. T. W. Russell.

THE RIGHT HONOURABLE DAVID PLUNKET, IN THE CHAIR.

Chairman (to Mr. Littler).] ONE of the Members of the Committee is anxious that some evidence should be given as to the probable improvement in the value of the land, in addition to that which has already been given. Several witnesses have stated that they thought there would be an increase of value of about 5 s. an acre to the benefit of districts; but one of the Members of the Committee, I think, would like if possible to have some further evidence upon the subject. I do not know whether Mr. Gamble could go more into detail upon the question.

Mr. Littler (to Mr. Gamble).] Are you able to do that?

Mr. Gamble.] No, not on the improved value.

Mr. Littler.] That point not being raised by any of the petitions, we have not specially provided ourselves with evidence as to that. I do not know whether there is any evidence on the subject that you could get in London?

Mr. Gamble.] I do not think there is at present. Mr. O'Neill would have given evidence as to that, but he has gone.

Mr. T. W. Russell.] We had Mr. Douglas, the Chairman of the Bann Drainage Committee, and two other witnesses, and all their evidence coincided as to the advantage that would result.

Mr. Pinkerton.] Mr. Gage and Mr. Douglas both gave evidence on that point.

Mr. T. W. Russell.] I should take a tenant farmer as being a much better judge of the value of land than any land agent that can be got.

On Clause 8.

Mr. Littler.] May I, before you do anything else, tell you that there are two alterations, or rather, in point of fact, one alteration, which we propose to make in the Bill. I may mention them now, in order to save the time of honourable Members afterwards. In Clause 8 we propose to take out of the clause in which the Commission makes its award, from line 20, after the word "districts" from the word "and" to the word "chargeable," in the next line, so as to make the charges simply arise on the lands benefited. Then there is a consequent alteration, which is that Clause 16 will naturally have to be struck out.

Mr. T. W. Russell.] That is consequential.

Mr. Littler.] That is consequential.

Mr. Cox.] This is to meet the objections that I raised on Friday.

Mr. Littler.] Yes, to meet the objections made by some honourable Members, and also by one or two of the witnesses.

Chairman.] I think Mr. Pinkerton has another amendment.

Mr. Pinkerton.] Yes, on Clause 9.

Chairman.] The amendment proposed by Mr. Littler is not exactly the same as Mr. Pinkerton's amendment, but it comes to the same thing.

Mr. Pinkerton.] I think it meets my objection.

Clause 8 was passed, as amended.

On Clause 9.

Chairman.] Have you, Mr. Littler, any amendments to propose on the part of the promoters, on behalf of the Government?

Mr. Littler.] No amendments.

After some discussion amongst the Committee, the clauses of the Bill were proceeded with.

Chairman.] On page 7, line 8, the words are "the ordinary term of office of a member of the Conservancy Board shall be six years," and it is suggested that it should be "three years." The remainder of the clause is framed so as to carry out the idea of six years, is it not?

Mr. Lane.] It is.

Mr. Littler.] The experience generally in England of having an election every year is not one that is very much loved by the people themselves either in the case of Drainage Boards or Local Boards, or anything else. A man has hardly had time to find out the duties of his office before, at all events, one-third of those who have found out the duties have or may have to leave.

After some discussion the amendment was withdrawn.

Clause 9 was passed, as amended.

Clause 10 was passed.

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On Clause 11.

Mr. J. D. Fitzgerald.] I have an amendment to propose on this clause. I propose to leave out the last three lines of the clause at the top of page 9.

Chairman.] Before you propose that I should like to raise the question of whether the Commission should have the power of embanking. It appeared to me on reading through the evidence carefully that the only result of striking out this embankment part of the work would be to flood certain lands which are really only a small part of the whole scheme, the lands near Carnage, where the red lines are; and I should say on the whole that by the time the Commission come to submit their proposals to the Conservancy Board, probably all that question will have been thrashed out on the spot, and the people there will be able to see that what they want is done. It is not a question between the catchment area, as such, and the improved districts.

Mr. Littler.] This is only an enabling power, and they might hereafter, perhaps, find it desirable to put some amount of banks, and, therefore, the striking out of the power to embank would take from them a discretion which I think it is very desirable that they should have.

Mr. T. W. Russell.] Is this the clause which the grand jury of Londonderry object to as to the bridges?

Mr. Lane.] No, that is a much later clause.

Chairman (to Mr. Fitzgerald).] Will you raise your point now?

Mr. J. D. Fitzgerald.] At the end of Clause 8, after the description of the works, I propose to add the following words: "the Commission shall not exercise any of powers of this Act so as to interfere with the passage of eel fry into Lough Neagh." The whole eel fishery depends upon the facility of the eel fry coming up to Lough Neagh; and I put it specifically to Mr. Gamble, when he was examined as a witness, whether there was any objection to a proviso of that sort, and he said no. At Question 86 of the first day's evidence, I said, "Do you see any objection to the insertion in the Bill of a proviso that you shall so construct the works that the eel fry shall not be prevented coming up to Lough Neagh?" and his answer was, "I see no objection to that." I would submit to the Committee that that is a proper thing to insert, and I may say that my instructions are, that on a previous occasion a similar proviso was inserted.

Mr. Littler.] Should not that come in the fishery clause if at all?

Chairman.] I think it would be more convenient to discuss this when we come to Clause 28, because, after all, in Clause 28, you can control this immediately if you satisfy the Committee as to the proviso.

Mr. T. W. Russell.] Do not the last three lines at the end of the clause give them a full indemnity?

Chairman.] I do not think so if they are controlled by a proper clause afterwards. I may say at once that I am not in favour of doing this.

The fishery owners have their protection now, and you may give causes of action which may be merely nominal causes, but very embarrassing; whereas, if they suffer a real injury, they will get their damages in the way we propose to provide; but, in any case, I think it would be more convenient to take this when we come to Clause 28.

Sir Richard Wyatt.] On behalf of the Irish Society I was about to suggest a similar provision with respect to the salmon fry. If it is distinctly understood that we should have the opportunity of making that suggestion it is perfectly immaterial where it comes.

Mr. J. D. Fitzgerald.] There is one other point. At page 9 the last three lines of the clause are: "Save as provided by this Act the Commission shall not incur liability to make compensation for anything done by them in exercise of their powers under this section." That is limiting the right to compensation in some way or other. How it precisely limits it is difficult to say, but it does limit the right to compensation in some way or other, and it is not a usual clause.

Mr. T. W. Russell.] If these compensation clauses are going in that will be the provision of the Act under which you will get compensation.

Mr. J. D. Fitzgerald.] Certainly, but my point is this: it is an unusual clause, and when this Act comes to be construed by a court of law they will find this provision, and they will ask what force is to be given to it. It is really a proviso cutting down in some way or other the right to compensation, and it is not usual.

Chairman.] I think the court of law would answer that it was aimed at such claims for injury as were not provided for under this Act. If you succeed in establishing in Clause 28 a means of obtaining redress for any injury to your fisheries, then certainly that would be provided by this Act, and would not be affected at all by the words of these last lines of the clause.

Mr. J. D. Fitzgerald.] But when power is given to take lands and construct works by an ordinary Act such a proviso as this is never inserted, and why should it be inserted in this Act? My learned friends have suggested to me that the object of it was to save the Commissioners from personal liability. That is a very proper object, but it goes very much further than that; it does not merely save the Commissioners from personal liability, but it cuts down the right to compensation. If it is only intended to save the Commissioners from personal liability if the word "Commissioners" were inserted instead of "Commission," and the proviso was "the Commissioners shall not incur any personal liability for anything done by them under the powers of this Act," that would be quite satisfactory to me, and would meet what I understand is the intention of the promoters.

Mr. T. W. Russell.] I was with you at first, Mr. Fitzgerald, but I cannot see the force of your argument now. You are setting up a claim for promissory damages. The other side have consented to that clause being inserted. That will

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will be your ground for compensation, and I do not see that you want anything else.

Mr. Littler. The simple answer to my learned friend is this; my learned friend has urged and we have consented that he is to have certain compensation and he has urged it on the ground that the general law does not give it to him. In exchange for that we say, very good, but now as you are going to put upon us a thing which you say (though we doubt it), will be a certain obligation and a certain appreciable liability, in exchange for that you must make it perfectly plain that when these Commissioners meet to consider whether they shall put the Act into operation or not they shall see what is before them; because in this very neighbourhood we know that a great deal has been promised heretofore which has not been carried out. Go and frighten the Commissioners with a number of undefined terrors and the probability is that this Act will never be carried into operation. But if on the other hand any man who runs may read and takes up the Act and sees this and says, I know the neighbourhood and I know that it will not occur, or if it does occur it will be only so many hundreds of pounds or so many thousands of pounds, he will be willing on behalf of those whom he represents to incur this liability. But have an indefinite liability and see whether there is any chance that the Commissioners will be able to appreciate it. If even my learned friend cannot tell what the effect of it will be, surely the non-legal minds of the Commissioners will not be able to tell what the effect will be, and the only result will be to strangle the whole thing without doing a halfpenny worth of good. My learned friend may criticise my compensation clause as much as he likes, and if that is made wide enough surely that is sufficient.

Chairman. Whatever objection may be taken by somebody else besides these fishery people, whether salmon or eel fishery people, they certainly can raise no objection to this clause, because their rights are, or will be, safeguarded, I think. But if some person else had petitioned, and had been told, "go about your business, the ordinary law will protect you," he might object to this clause.

Sir Richard Wynn. May I venture to make a few observations upon this? I am instructed to very strongly resist this, because the promoters have agreed that we shall be fully compensated for any damage which we may sustain. As a matter of drafting, I invite the Committee to consider this for a moment. You say that Clause 28 is to provide for the compensation which my clients are to receive. But this clause says, "save as provided by this Act, the Commission shall not incur liability to make compensation for anything done by them." Now, Sir, as a matter of drafting, I am quite sure the promoters cannot mean that a court of law, for instance, should be placed in this difficulty, that they should find one part of the Act saying that they shall have no compensation, and another part saying they shall have compensation. If it be the intention of the promoters to protect the Commissioners, then I venture to say that there are hundreds of forms of ordinary clauses to be found in Acts of Parliament, which clearly define how

Commissioners or any public body are to be saved from personal liability; in fact, the general law protects magistrates and others acting judicially from suffering from any act of theirs unless they act corruptly. Under any circumstances, no matter how corruptly they may act (assuming for the sake of argument that they act corruptly, and do us out of our compensation), they are to be indemnified. I venture to say that very few words as suggested by Mr. Fitzgerald would meet this case. If you put in that the Commissioners acting in the discharge of their duties shall not incur any personal liability in the exercise of such powers, there can be no objection to that. Then if they act corruptly that is a question for a court of law to settle; but I do respectfully say that there is no precedent for such a provision as this in a quasi-public Act of Parliament; first of all saying that there shall be no compensation payable, and then afterwards, in Clause 28, as amended, we find that certain persons are to be compensated.

Chairman. What is the meaning of saying "as provided by this Act?"

Mr. T. W. Russell. If the first six words of this section were left I should be with you entirely, Sir Richard, in your argument, but these words govern the clause.

Mr. Lane. If the Committee will allow me to say so, Section 26 has been altogether overlooked; that gives power to enter upon and purchase land which is defined to include the right of fishery; and it says there in lines 11, 12, and 13, that they are to do everything "for the accommodation of land adjoining those works, making compensation to all persons for any loss or injury occasioned to them by the exercise of such powers."

Sir Richard Wynn. I respectfully say that that is in inconsistency; if you say "subject to the provisions of this Act, that is the ordinary course in cases of this kind."

Mr. Lane. I do not see any objection to accepting those words, but I cannot see what difference they make.

Sir Richard Wynn. That is quite a common form.

Mr. Morrison (to Mr. Lane). Can you explain why they were put in?

Mr. Lane. If I had drafted the Bill perhaps I could explain. My own idea on reading it was that it was to prevent personal claims against the Commissioners. It was drafted before I came into office.

Mr. J. D. Fitzgerald. Mr. Littler has not pointed out what value those words are to anyone, and that is my difficulty in the case. If you give Mr. Littler his corrections, the words are of no value to anyone, as he himself admits.

Chairman. I do not understand Mr. Littler to say that.

Mr. Littler. I say they are of great value. We have them in this one Act of Parliament everything that a man wants to know about as to this matter.

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Mr. T. W. Russell.] Supposing Clause 28 to be passed, and you get your right to compensation under that clause; if this clause was not in the Bill at all, might the Commissioners be proceeded against by anybody for anything that he thought himself damaged by?

Mr. J. D. Fitzgerald.] I do not think so, especially if the ordinary clause is put in, exempting the Commissioners from personal liability.

Chairman.] I cannot see the force of that argument.

Mr. J. D. Fitzgerald.] I will only say that these Acts dealing with compensation are passed every day, and settled forms have been adopted, and every deviation from those forms except for some reason is extremely dangerous; we do not know where it lands us. It is within your knowledge what difficult questions have arisen in construing the Lands Clauses Consolidation Act, and now by a series of decisions given in the House of Lords, the meaning of those Acts has been pretty well defined. Once you depart from the ordinary provisions, you do not know where you are landed.

Sir Richard Wyatt.] I understand that there is no objection to the words "subject to the provisions of this Act."

Chairman.] I think we had better leave the words as they stand now. I have no doubt they have been carefully considered by the draftsman.

Clause 11 was passed.

On Clause 12.

Chairman.] I see that there is a proposed amendment at line 18. I believe there is a clause further on that these moneys are to be provided rateably.

Mr. Lane.] Yes.

Mr. T. W. Russell.] I suggest to insert after the word "pounds," in line 15, the words "a sum not exceeding."

Mr. Morrison.] I suggest that it should read in this way: "Of the sum of 45,000 £, a sum of 8,000 £ shall be charged upon the special districts, and a sum not exceeding 37,000 £ shall be charged upon the county cess."

Chairman.] I think it would be better to leave it thus: "Of the sum of 45,000 £, a sum not exceeding 37,000 £ shall be charged upon the county cess, and a sum of 8,000 £ upon the special districts." Is there not a clause which says that, whenever money is required to be spent, it shall be provided for rateably?

Mr. Lane.] Yes; but as the 8,000 £ will be always less the 37,000 £, I do not think that would make any difference.

The following amendment was adopted: That in line 15, after the words 45,000 £, there be inserted these words: "A sum not exceeding"; and again, in line 16, after words "county cess" and "the words "a sum of" be inserted.

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Mr. Little proposed the following new clause 13: "Provision of money for compensation." "If and so far as the amount of any purchase-money or compensation which shall become payable in respect of any land required by the Commission or the Conservancy Board, or in respect of any loss or injury occasioned by any works executed by the Commission or the Conservancy Board shall not be paid out of the moneys provided by this Act for the cost of the works, the amount of such purchase-money or compensation shall be defrayed in the following manner, that is to say: (1) One-third of the said amount shall be defrayed out of money to be provided by Parliament as a free grant; (2) The Board of Works may from time to time, with the consent of the Treasury, out of money at their disposal for the purpose of loans, advance by way of loan to the Commission or Conservancy Board as the case may be, and the Commission or Conservancy Board may borrow to an amount not exceeding two-thirds of the said amount, and the sums so advanced shall be charged upon the special districts."

Mr. J. D. Fitzgerald.] This clause as it stands is limited to damage done by the execution of the works, and does not include damage done by the exercise of the powers of the Act. That, I take it, is an accidental oversight, and I have no doubt the Government would assent to the clause being amended to include that. As an instance of what I mean, next to the Eel Weir at Tooms is a lock; if the lock gates were removed, as under the powers given by the Bill they might at any moment be removed, a fresh fish pass would be open which would do most serious damage, and in fact destroy the value of the weir. I quite understand that it is not the intention of the Government that that should be done; but still power is taken under the Act to do it, and that would be an exercise of one of the powers of the Act by which very serious damage might be done.

Mr. Little.] Would not that be a "work executed?"

Mr. J. D. Fitzgerald.] It is not a work executed at all.

Mr. Lane.] I do not see any objection to putting in the words "the exercise of any of the powers of this Act."

Sir Richard Wyatt.] Perhaps I may mention that just as the Committee were meeting, I was going through these clauses with Mr. Cripps, for the promoters, and he had made some alterations in this clause, which perhaps the Committee will allow me to read.

Mr. Cameron.] They have not been adopted.

Sir Richard Wyatt.] Except that your counsel and I talked them over.

Mr. Little.] As a matter of order I must protest against Mr. Cripps being consulted when I am not.

Sir Richard Wyatt.] Fortunately for the learned counsel he is wanted in many places constantly at the same time, and he was not present, and

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and his junior was there. Perhaps I had better show the suggested amendments to Mr. Littler.

Sir Richard Wyatt showed the amendments to Mr. Littler.

Chairman (to Mr. Gamble.) Will you attend to this proposal which is being made now?

Mr. T. W. Russell.] Mr. Gamble has given evidence already that it would be dangerous to the fisheries to open the lock gates.

Mr. Littler.] We are content to make the alterations that are made in pencil. There is only one point that my learned friend has raised beyond, and that is, that he says that "lands" under the Lands Clauses Act, does not include fisheries. The interpretation clause of this Act expressly says that lands shall include fisheries.

Sir Richard Wyatt.] That is so: "If and so far as the amount of any purchase-money or compensation which shall become payable in respect of any land required by the Commission or the Conservancy Board, or in respect of any damage, loss, or injury occasioned thereby, by the exercise of any of the powers of this Act, shall not be paid," &c., "In the first part one-third of the said amount shall be defrayed, and then "the Board of Works may." Would you not say "shall from time to time"?

Mr. Lane.] That is modelled on Clause 12 with reference to the other money.

Chairman.] I think we had better follow the other clause, Clause 12, which we have passed.

Mr. J. D. Fitzgerald.] That word "thereto" I think has got in by mistake. It was part of a larger amendment referring to fishery rights, and that latter part of the amendment was objected to by the Government, and is withdrawn. It is not wanted. If you have the word "thereto" it refers only to the land taken.

Mr. Lane.] I understood that it was suggested by my friend. I did not want it at all.

The word "thereto" was struck out.

The new clause was passed, as amended.

On the further new clause in substitution for Clause 13.

Mr. Lane.] As the Bill originally stood there was only one kind of annuity payable out of the lands specially benefited, namely, annuities for repayment of the loan for the works. Now, there may be also annuities payable out of the compensation fund, and those annuities will become payable at different dates, and therefore it was necessary to put one sub-clause for each.

The further new clause was proposed, as follows:—

"The several lands mentioned in the said schedule settled by the Commission, shall from the gale day next preceding the date of the award become charged with the payment to Her Majesty of annual rent-charge of four pounds

ten shillings for every one hundred pounds charged on the said lands respectively, for the repayment of any loan for defraying the cost of the works, and so in proportion for every lesser amount, to be payable for the term of 40 years, such rent-charge to be paid by equal half-yearly payments on the first day of May and first day of November in every year, the first of such payments to be made on the first of such days which shall happen after the date of said award. (2.) The said lands shall from the date of each advance become charged with the payment to Her Majesty of an annual rent-charge of four pounds ten shillings for every one hundred pounds charged on the said lands respectively, for the repayment of any loan for defraying the amount of any purchase-money or compensation, and so in proportion for every lesser amount to be payable for the term of 40 years, such rent-charge to be paid by equal half-yearly payments on the first day of May and first day of November in every year, the first of such payments to be made on the first of such days which shall happen next after the advance."

The clause was passed.

On Clause 14.

Chairman.] What is the meaning of the proposed amendments?

Mr. Lane.] There are now two annuities, and we have to take care that the award shall not be confined to one. The object of the other amendment is that the Board of Works called attention to the fact that inasmuch as the annuity is charged upon the lands, there are sometimes great difficulties in proving that the person was in occupation of the lands at the time when the improvement work was done, and therefore they want not to have any complication in reference to the time.

Mr. T. W. Russell.] This seems to bar proceedings after the lapse of two years.

Mr. Lane.] As it stood originally, it barred proceedings against any person except the person who was in occupation of the lands at the time.

Clause 14 was passed, as amended.

On Clause 15.

Mr. Lane.] There is a similar amendment in this clause as regards annuities. The word "such" should be omitted.

Sir Richard Wyatt.] I am instructed to suggest three words which I have shown to Mr. Lane, but he has not had time to consider them. Clause 15 stands thus: "Every such annuity charged upon lands shall take priority of all charges and incumbrances, whatsoever and whenever made, and of all rent payable out of the said lands, save and except quit-rents and rent-charges." I am instructed to suggest the insertion of the words "fee-farm rents," because that is a perpetual rent-charge, and it is a term which is used in most documents.

Mr. Lane.] If that means the rent that the Irish Society pay for their lands, it does not occur

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to me at present that there is any reason why their rents should be placed in any different position from those of any other person.

Sir Richard Wyett. Mr. Lane suggests whether rent-charges would not include fee-farm rents.

Chairman. I understand that it is to put the rents of the Irish Society on the same basis as quit-rents, which is rather a strong order.

Mr. Lane. I have no authority to consent to that.

Sir Richard Wyett. It is a common term; it does not apply only to the Irish Society.

Chairman. Not only, but principally, I think.

Mr. Lane. Then in line 31 the words as they stood were "any Act of Parliament heretofore passed." It was thought when it was looked into that that was rather wide, and therefore what is proposed to be done is to add the words "of the Drainage Acts or the Land Improvement Acts," and to define those in the definition section to show what the particular Acts referred to are.

Clause 15 was passed, as amended.

Clause 16 was struck out.

On Clause 17.

Mr. Lane. This is to carry out what Mr. Balfour said, it is proposed to leave out the words "so long" at the commencement of the clause down to and including the word "thereon," in the next line; and then in the next line to that again, line 38, to change "such" into "any"; so that it would read, "any increase in the value of any land which shall have resulted from the execution of the works," &c.

Mr. F. W. Russell. Are you quite sure that this carries out Mr. Balfour's intention that no increased value of these lands shall be charged?

Mr. Lane. The words are mine, but—

Chairman. That was the amendment agreed to the other day.

Mr. Lane. Yes.

Chairman. And you have not altered it since?

Mr. Lane. No; Mr. Littler read out these words.

Chairman. The clause as amended will read thus, "Any increase in the value of any land which shall have resulted from the execution of works pursuant to the provisions of this Act shall be excluded in ascertaining the value of such land for the purpose of fixing a judicial rent therefore under the Land Law (Ireland) Act 1881, and any Act amending the same."

The clause was passed, as amended.

On Clause 18.

Chairman. What is the reason of the amendment proposed by the Government on this clause?

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Mr. Lane. There are two sections, one of which gives certain powers of sale for the purposes of raising the annuities; and having regard to other powers of sale which have come into force since that Act of Parliament was passed, the Board of Works do not think it necessary to have those powers put in. As regards the other section it is in consequence of some difficulties that have been raised in the case of the Attorney General v. Ireland. Some of the words in that section appeared to make the charge rest upon the tenants' interest in the holding instead of upon the land itself, as it is intended by this Act it should be.

Clause 18 was passed, as amended.

Clauses 19, 20, 21 and 22 were passed without amendment.

On Clause 23.

Chairman. (To Mr. Lane.) What is the object of the amendments proposed on this clause?

Mr. Lane. The object was to make clear what was intended before. It was suggested that the words contained this ambiguity: that they might have obliged the Government to keep copies of all their schedules, maps, or plans, and to sell them for half a crown; and the intention is to limit it to the maps.

Clause 23 was passed, as amended.

Clauses 24, 25, 26, and 27 were passed, without amendments.

On Clause 28.

Chairman. What are the amendments that you have agreed to insert, Mr. Littler, to meet the views of the fishery owners?

Mr. Littler. We stand by the clause as it is.

Mr. J. D. Fitzgerald. The first amendment that I should propose in this clause is this: At line 40, page 15, after the word "to" to insert the word "construct any work," so that it would read in this way: "Nothing in this Act shall authorise or empower the Commission or the Conservancy Board to construct any work, make any bye-law, or do any other act or thing which shall cause any permanent or injurious alteration," &c. I assume that it was intended to include that in the words "do any other act or thing." But you are fully aware of what is called the *quasi-juris generis* doctrine, and if you have general words coming after a reference to a bye-law they will be construed in a court of law to mean something similar to the making of bye-laws; and therefore, as a matter of precaution, I ask to have the words inserted.

Mr. Littler. It is a most ingenious proposition of my learned friend's. It is intended to be *quasi-juris generis*. My learned friend with one breath asks for compensation if we do him mischief, and with the next he says that we shall not do it. If my learned friend had not asked for compensation I might have understood his coming and asking to restrain us from doing any work. Which does he want? I have elected to pay him compensation,

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tion, and therefore if I do work which does him injury, it is quite a different thing from my passing a bye-law which does him injury; because, if I passed a bye-law which did him injury, he certainly would not get compensation for it. When these bye-laws are submitted to the superior authority, which I presume will be in Dublin, the Secretary for Ireland (here it would be the Secretary of State for England) it would be immediately a reason for refusing to allow the bye-laws. This is a direction as to the class of bye-law which the allowing authority is to permit. It is intended to be *judex genericus*. You authorise us by this Bill to do these acts and to make these works. If they cause mischief that would otherwise be illegal, we must compensate for it.

Mr. J. D. Fitzgerald.] I can only say that that is an entire change of front on behalf of the Government, because the case before the Committee has been that no injury will be done to any salmon fishery. It was contended that this 28th clause was inserted for that purpose, and being for that purpose, imperfect as it stood, I propose this alteration. But if it is merely understood that for any damage done, permanent or otherwise, the persons injured are to be compensated, of course the alteration does not become of much importance.

Mr. T. W. Russell.] I think the amendment meant would render the whole Clause 28 nugatory.

Chairman.] I do not think that we can accept that proposal of yours, Mr. Fitzgerald.

Mr. J. D. Fitzgerald.] I do not press it after the suggestion of my learned friend Mr. Littler. All that I want to secure is, that the right to compensation is clear, because, as it now stands, it might be said that any permanent injury is *ultra vires*, and not the subject of compensation, and then what position are the lessees in?

Chairman.] The position of the lessees will be that, if they take legal action, a fund has been provided to compensate them. The position that the Government are in is this: they say we do not believe that we shall do your fishery a bit of damage, but we prefer to give you an opportunity of recovering damages, and provide a fund for paying you in case our calculations are misplaced.

Mr. J. D. Fitzgerald.] I do not press the amendment after what has been stated.

Chairman.] Of course the Act of Parliament will have to stand upon its own words when it is passed.

Mr. T. W. Russell.] Who is to decide what shall or shall not cause any permanent injury if you do not allow the works to be constructed?

Clause 28 was passed.

On Clause 29.

Mr. Morrison.] Why was this special saving put in?

Mr. Lane.] It was copied from an Act of the 21st of Victoria as to the Bann drainage. There

was a clause put in there to protect the then Marquis of Dootgall, and the Countess of Shaftesbury asked to have a similar clause put in to this Bill.

Sir Richard Wyatt.] May I ask whether you have finally gone through Clause 28?

Chairman.] Yes.

Sir Richard Wyatt.] I am in this awkward position: I have two counsel, but they are both engaged in other rooms. There are some amendments that I should like to propose to Clause 28, and what I would respectfully ask is that Clause 28 should be postponed.

Chairman.] I cannot go back on Clause 28.

Sir Richard Wyatt.] Then I am afraid that we must give the promoters trouble at a subsequent stage.

Chairman.] I cannot help it. The matter was fully argued by Mr. Fitzgerald.

Sir Richard Wyatt.] I am for the Irish Society, and have no interest in eels. They are very good things, I daresay, but we have salmon.

Chairman.] The clause applies equally to the one or the other.

Sir Richard Wyatt.] It is only in Sub-section 2 that I desire to have an amendment inserted.

Chairman.] I am extremely sorry that we were deprived of the assistance of your counsel; but we have passed Clause 28, and we cannot go back upon it now.

Sir Richard Wyatt.] This is a court of equity.

Chairman.] We are now dealing with the Countess of Shaftesbury.

Sir Richard Wyatt.] I only want to include salmon as well as eels; that is all; and that I presume the promoters would not object to.

Mr. Morrison.] You have a salmon fishery and an eel fishery.

Sir Richard Wyatt.] Not in part 2.

Mr. Lane.] We do not know what the dates are for the salmon, but they would not be the same as for the eels.

Sir Richard Wyatt.] I am quite sure that the promoters do not desire to object to any reasonable amendment.

Chairman.] Of course if it is only a formal thing it can be easily inserted at a future time, but I am afraid that we cannot go back.

Mr. Littler.] If there is anything that Sir Richard will show to Mr. Cameron, and will show that it is a mistake, with your assistance, Sir, we will put it in hereafter.

Sir Richard Wyatt.] As I am particularly desirous of saving the time of the Committee, I went through it with the junior counsel, and they said that they were quite content.

Chairman.] I do not know how far my powers extend in that way, but so far as they do extend I would

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I would be anxious to meet the convenience of counsel on both sides.

Mr. Liddle. We will take no technical advantage of Sir Richard; but, so far as I can gather, it is rather a matter of substance, and if so, I do claim my right of going on.

Chairman. Of course if it is a matter of substance that is a different question; but if it is only a matter of form, I shall be very glad to assist in any way I can.

Sir Richard Wyatt. I think you will say, Sir, that it is quite consistent with the other parts of the Bill (*handing the amendment to the Chairman*).

Chairman. I could not give an opinion off-hand. If it is a matter of form upon which you can agree with the counsel for the promoters, I shall be very glad to do anything I can to set it straight afterwards; but if it is a matter of substance—

Sir Richard Wyatt. Do you think that it is a matter of substance?

Mr. T. W. Russell. It simply adds salmon to eels, and puts in the different dates for salmon.

Mr. Liddle. So far as I can understand it I should object.

Chairman. I cannot assent at present, but I am sure that the counsel for the promoters will do what is fair. Perhaps you will settle later on with them, but I cannot go back upon that at this moment.

Mr. T. W. Russell. If it had been proposed in order I see no difficulty in doing for salmon what we have done for eels.

Mr. Lane. The engineer has said that that clause can be put in as regards the dates for eels, but he has not had submitted to him the dates for salmon.

Mr. T. W. Russell. You had better bring up a new clause.

Sir Richard Wyatt. I can bring up a substantive clause. You know me I hope too well to suppose that I would hold out anything in the shape of a threat or give any unnecessary trouble; and, therefore, I am anxious not to bring up an amendment, but I will bring up a substantive clause.

Clause 29 was passed.

Mr. J. D. Fitzgerald. If you will allow me, Sir, to bring up a substantive clause dealing with the compensation, that will dispose, so far as I am concerned, of the question of compensation for my fishery. The provisions of the Act as they stand, do not give compensation in the case of injury, which we apprehend, and it is this: at present the entrance to Lough Neagh from the Bann is closed by a weir, over which the water flows. There are no sluices in that weir. Mr. O'Neill's fishery consists of two eel weirs, which are situated, one immediately below the Toome Weir, and another some little distance further down the river. For the purpose of fishing at this eel weir of Mr. O'Neill's, a current in the river is necessary, and now that current

he has for stretching his nets; and for the very reason that a current is necessary, it is impossible to construct a weir which can be effectively used in Lough Neagh itself. The best fishing months in the year are the months of September and October, in the autumn floods, and the only fishing that can be carried on in Lough Neagh at the present time is fishing from boats with seine or drawn nets, and for the purpose of carrying on that fishing effectively, it is necessary that the water should be low. What the promoters propose to do is this: they propose in the Toome Weir, which keeps the water in Lough Neagh, to construct a series of sluices, and they propose to keep those sluices open whenever the water is above the summer level, and thereby practically all through the fishing season to keep the level of the water in Lough Neagh at the summer level. The effect of that would be two-fold. In the first instance, it would create a current at that end of Lough Neagh by having those sluices constantly open, and the effect of creating a current there, will be to enable a weir to be erected in Lough Neagh. The ownership of the soil of Lough Neagh is either vested in or is claimed by Lady Shaftesbury, and if her claim is good, she will be able to erect a fishing weir in Lough Neagh, right in front of the weir in the Bann now possessed by Mr. O'Neill. The second effect of it would be this: that at the present time during the fishing months, the water in Lough Neagh is so high, that practically a net fishery cannot be effectively carried on; but if the water in Lough Neagh is kept to the summer level, as Mr. Gamble told us, or as Mr. O'Neill told us it was proposed to do, it will be sufficiently low to enable the net fishing to be carried on effectively during those months. What Mr. O'Neill apprehends, and what his lessee also apprehends, is this: that the effect of those two things, first, the creation of a current, and the possible erection of a weir; and secondly, the reduction of the level of the water, and consequent facility for carrying on the net fishing, will be, that the amount of fish coming to his weir will be very largely reduced. It naturally follows from that that the amount of eels taken by him would be very considerably reduced, and the value of his weir considerably reduced in consequence. It is a question of considerable importance to Mr. O'Neill. He has what is in fact a perpetual lease of this fishery, which produces him a profit rent of about £1,000 a year. It is also very important to his lessee, who pays that rent, and expects to make a profit out of it. As the Bill stands, if the injury which they apprehend is done to them, it is at least arguable that that they will get no compensation at all; and if I satisfy the Committee, as I think I can, that that apprehension is a reasonable one, I submit that the provisions of the Bill ought to be so framed, that if they can establish that damage has been done to them, for that damage they shall be compensated. I should like upon that point to call Colonel Bruce, who is the lessee of the fishery.

Mr. Liddle. Before my learned friend does that, I would point out that the weir which he claims the advantage of is one which was not constructed by Mr. O'Neill, but was constructed by the Public Works Commissioners; and he is

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now proposing if we alter that which has been done out of the public money at the public expense that he is to have compensation. I object to any witness being called upon such a subject as that. He has had the advantage for all these years of a certain thing which was not done by him for the protection of his salmon, but for entirely different purposes for which it has failed; and having had this advantage for all these years, he is now claiming to have a special clause put in to compensate him for the public taking away what was created at the public expense, not in order to develop Mr. O'Neil's property, but for an entirely different object, viz., to drain the Bann. Surely, Sir, on that you will not bear evidence at all.

Mr. J. D. Fitzgerald.] It cannot make any difference to the right to compensation by whom the weir was originally erected. I am speaking of the Toome weir, not of the fishing weir; the weir which separates Lough Neagh from the River Bann. That weir is there now, and Mr. O'Neil and his fishery have had the benefit of it since it has been erected. His lessee has taken his lease upon the faith of that weir being maintained as it is now. Except under the powers of this Act no alteration can be made in that weir.

Mr. Littler.] I beg your pardon. Sluices can be put into it to-morrow.

Mr. J. D. Fitzgerald.] If so, that does not come within the provisions of my clause. I am not aware that any sluices are proposed to have been put into it.

Mr. Littler.] Sluices ought to have been put into it from the beginning, if it had been properly constructed.

Mr. J. D. Fitzgerald.] All that I ask for is protection from damage done under the powers of this Act. If Mr. Littler is correct in saying that there is power now to make these sluices then these sluices will not be made under the powers of this Act, and I shall not be entitled to any compensation for them. That weir has stood in its present position for some thirty years, and so far as I know it can only be altered under the powers proposed to be taken by this Bill. If the alteration of the ordinary flow of the water does affect Mr. O'Neil's fishery, and damages it he ought to be compensated for it, and that is all I ask. With your permission, Sir, I will call Colonel Bruce.

Mr. Lane.] I understand Mr. Fitzgerald to say that two things might happen if this clause was put in; one that somebody might erect a weir in front of his; another, that persons might fish with nets in a way different from what they did before. If these persons should have a right to do so by reason of its being easier for them to do that that would not be a matter for compensation; but surely the lowering of the water could not be done under that Act, but by somebody else, and if so, those are the persons who ought to pay the compensation.

Mr. J. D. Fitzgerald.] The point that Mr. Lane is raising is the exact point that I was apprehensive of. He is suggesting that in law the

damage is too remote; but whether the damage is too remote in law, or not, it is damage all the same. It is no compensation to Mr. O'Neil to be told when his fishery is reduced to half its value that the damage is too remote and that he cannot recover compensation. The suggestion that Mr. Lane has made is precisely the difficulty that I fear. Under the Bill as it stands it is at least arguable that the damage would be too remote, and that, therefore, no compensation would be given to Mr. O'Neil for this damage.

Mr. Littler.] Do I correctly understand that your clause is to give a right of action which does not exist now?

Mr. J. D. Fitzgerald.] Not a right of action; a claim of compensation.

Mr. Littler.] A right of action in place of a right of compensation which does not now exist.

Chairman.] As I understand, Mr. Fitzgerald, you do not deny that there is at present a power of putting sluices into this weir. When the Act was originally passed that weir was not put there to give a benefit to Colonel Bruce's fishery, but for another purpose altogether; but the weir being there, and there being no doubt the power to put sluices into it given to those who constructed the weir for a different reason, you ask us now to put in a clause which will give him practically a right of action against the Commissioners if they proceed to give effect to the right which they now have; is that so?

Mr. J. D. Fitzgerald.] I do not understand that they have any such power. Mr. Littler has suggested it, but I have not seen any Act of Parliament which confers it.

Mr. Littler.] I say unhesitatingly that the sluices ought to have been put in; they might have been put in at any rate.

Mr. J. D. Fitzgerald.] Mr. Littler says many things unhesitatingly, but I should like to see the Act of Parliament which gives the power, because no riparian or public body has any power to interfere with the ordinary course of the flow of water, and when once a work is erected under an Act of Parliament that forms the ordinary flow of water over that weir. If there is any power to put a sluice in that weir it must be under Act of Parliament, and if so let that Act of Parliament be produced.

Mr. T. W. Russell.] Is it your case that anybody might put a weir in front of Mr. O'Neil's weir?

Mr. J. D. Fitzgerald.] My case is this, that no one can put a weir in the River Bann. Mr. O'Neil, as I understand, has the exclusive right of fishing in the River Bann between Lough Neagh and the Little Lake, or somewhere about that. At the present time the owner of the soil of Lough Neagh, might put up a fishing weir in Lough Neagh; but owing to the way in which the water is kept up by the weir for all practical purposes that is impossible. Once you open these sluices and create the necessary current at the foot of the lake a fishing weir becomes possible.

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Mr. T. W. Russell.] In Lough Neagh itself?

Mr. J. D. Fitzgerald.] In Lough Neagh itself, not in the River Bann. The distance between the end of Lough Neagh and Mr. O'Neill's fishery is very short indeed, not more than 500 yards. Mr. O'Neill's first fishing weir is about 500 yards from the Toome Weir, at the end of Lough Neagh. If they exercise the powers of this Act to, in fact, enable a person to create a second weir which will catch the fish before they come to Mr. O'Neill's weir, it is no answer, in a tribunal of this kind, which does equity, and which will not give exceptional powers unless equitable provision is made to compensate those who suffer, to say, You have no right of action at law, because the damage is too remote. Over and over again provisions have been inserted in private Acts of Parliament dealing with rights for the very purpose of protecting persons who have no right at law. That is all I ask with regard to Mr. O'Neill. I may say that a somewhat similar question arose with regard to Lough Foyle, some years ago, in a Bill in which I had the honour to be counsel, a Bill promoted by the Londonderry Port and Harbour Board. It was suggested that the works which

they were about to create would cause a change of the current in Lough Foyle, and that the result of the change in the current would be that the salmon, instead of running up along the bank in the way they were accustomed to run, would take a different course, and that the result would be to damage the fishery very much indeed. The Irish Society petitioned against the Bill on that ground, and the difficulty was met by inserting a clause in the Bill enabling them, if they found that their fishery was damaged, to change the position of their nets, and to put their nets down in a new position. That shows the very kind of thing that I suggest here, which is not actionable at law, but which has been the subject of consideration in Parliament, and has been provided for by a special Act; and I do not think that in principle there is any difference between the case of the Irish Society under the Londonderry Act and the case of Mr. O'Neill before this Committee. I ask that should be placed in such a position that if he is able clearly to substantiate the damage that is done to him that damage should be compensated.

MR. JOHN GEORGE GAMBLE, re-called.

Mr. Caz.

880. Do you think such a contingency probable as that the flow of the stream from Lough Neagh would be so strong that it would be possible to set fishing-nets outside in the lake?—I hardly think so; but I am not very specially acquainted with the eel fishing.

881. I do not know very much about it, but would not the only current required be a current to force the tail of the net away from the mouth and give it a flow down?—The Conservancy Board certainly would not allow any weir to be placed there so as to restrict the current towards the sluices.

Chairman.] It appears to me that the petition is this as regards Mr. O'Neill: that whatever he fears at present is the removal of a benefit which he obtained by some previous Drainage Act being put into force. As regards his lease, of course if it could be shown that the lessee took this lease with any statutory authority for the belief that this benefit would be permanent, I do not know whether he would have a remedy against the Government or against the Conservancy Board.

Mr. Little.] He has that Act of Parliament before him, and here is Section 53 of the original Act, 5th and 6th Vict. c. 89, "And be it enacted that it shall be lawful for the said Commissioners to contract with or employ such contractors, surveyors, agents, and workmen as they shall think fit, and to make and execute all such works as shall be described in the maps, plans, and sections, hereinafter mentioned, or such deviations therefrom, or such other works as they shall deem necessary for effecting all or any of the purposes of this Act, and

for such purposes to enter into and upon any land whatsoever, and to widen, straighten, deepen, divert, secure, or cleanse any river, stream, drain, brook, pool, or watercourse running through such land, and to make open and out in or upon the same any new watercourse, side cut, ditch, or drain, and to alter or remove any bank, sluice, floodgate, lock, drain or tunnel, and to make or erect any wharf, landing-place, pier, quay, harbour, bank, sluice, floodgate, lock, lock-house, or other building, drain, tunnel, towing path, or other works necessary for drainage or improvement of the navigation, and to dam, har, and stop up with any weir or dam any river, brook, pool, stream or watercourse, and also to make upon such land any embankment against the sea or any lake, river, stream or watercourse, and to put and place on such land any piles, stones, earth, soil, or other materials for the purposes of the works or for the more effectual protection or defence of such land, or for the better conveying of water from the said land into the sea, or into any river, lake, stream, or watercourse, and also to form any dam, and to erect any sluice, hatch, or lock in any river, lake, stream, or watercourse for the purpose of supplying water to any mill or factory," and so on. Those words are as wide as they can possibly be.

Mr. J. D. Fitzgerald.] Those persons were with regard to existing works, but they do not give you any power after a weir has been standing for 30 years, as this has, to alter it. However, that may be debatable; but that does not meet my point in the least, because what I say is that if it is done in

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Mr. GAMBLE.

[Continued.]

the exercise of the powers of this Act, which the Committee are asked to pass, if it turns out that the exercise of the powers of the old Act enable them to do so, then I admit that for the exercise of those powers I must relegate it to the old Act; but I ask to be safeguarded against damage resulting from the exercise of any powers of this Act.

Chairman.] It might be, in a certain sense, under the powers of this Act, and still it would be only in consequence of powers given in a previous Act, and I cannot see that there is any equity for compensation for taking away that which was incidentally conferred upon this gentleman, and has been enjoyed by him for many years under another Act, and for which he has paid nothing.

Mr. J. D. Fitzgerald.] Would you allow me to call a witness who thoroughly understands this matter, and I think he will be able to satisfy you that is so.

Chairman.] I have no doubt he could satisfy us that it was a very valuable thing, this benefit which had been created for him; but that is not the point. I do not think that you can press the matter further, Mr. Fitzgerald.

Mr. J. D. Fitzgerald.] Of course if the Committee have come to that conclusion, I am indisposed to take up their time, but Colonel Bruce's view is this—

Chairman.] We will clear the room.

The Committee-room was cleared.

After some time the counsel and parties were again called in.

Chairman.] The Committee have considered the argument which has been very ably submitted to them by Mr. Fitzgerald, in support of the claim of Colonel Bruce, and they cannot admit that there is any such case established as would justify them in putting into the Bill the proviso suggested by Mr. Fitzgerald. If Colonel Bruce had anything to say in evidence which would go outside of the argument advanced by Mr. Fitzgerald, of course we should be very sorry to shut his mouth or prevent his saying it; but, assuming that his case has been fully stated by Mr. Fitzgerald, we cannot yield to his argument, and on that ground we do not think it necessary to go into the evidence by which he would have supported the argument put forward.

Mr. J. D. Fitzgerald.] The only thing is that, while I was outside, Colonel Bruce informed me of what I was not aware of before, viz., that he is a member of the existing drainage board, and, so far as he knows, they have no right whatever to interfere with the sluices.

Mr. Lister.] I object to that. Colonel Bruce cannot know more than the Act of Parliament.

Mr. J. D. Fitzgerald.] And he says that no such proposition has ever been brought before the board.

Chairman.] That may be, but, as Mr. Fitzgerald knows very well, that does not affect the force of his argument.

Clause 29 was passed.

Sir Richard Wynn.] I understand that the manuscript clauses will be brought up at the end.

Chairman.] Yes; because, as I understand, should your amendment be adopted, it can be shifted into its proper place.

On Clause 30.

Mr. Morrison.] Where will the meetings be held, at Coleraine?

Mr. Lane.] That will be for board itself to settle.

Mr. Morrison.] I think 15 s. is excessive, because they have no bedroom expenses.

Mr. Cameron.] They do not get anything else. These are the entire expenses of the Conservancy Board.

Mr. Lane.] I think that is the lowest scale the Government ever gives.

Chairman.] I believe a member of the board gets no payment of any kind.

Mr. Lane.] None whatever.

Clause 30 was passed, as amended.

Clauses 31, 32, and 33 were passed without amendment.

On Clause 34.

Mr. Lane.] This amendment was to obviate the objection of the Lough Neagh Drainage Board. The section gives power to make and construct a drain through a neighbour's land, in order to carry off water from him, and that if that drain benefited him to some extent, he ought to pay for it instead of being compensated for it. It is for the Committee to say whether they will adopt that principle or not. As the clause stands at present, it gives me power to go upon my neighbour's land to make a drain to carry off water from my land to connect it with the drainage work under the Act. The Lough Neagh Drainage Board suggested that it was not fair that if the drain did the man through whose land I made it any benefit, he should not also pay some of the cost of construction. It seemed reasonable that if he benefited by it he should also partly pay for it. I think in addition to the amendment, the words "and also for the privilege aforesaid" in line 15 should be left out. That is a consequential amendment.

Clause 34 was passed, as amended.

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Mr. GAMBLE.

[Continued.]

On Clause 35.

Mr. T. W. Russell.] This is certainly a very sweeping clause. It is the clause which the Grand Jury of Londonderry referred to. Their objection is that it gives to the Lord Lieutenant, of course acting upon the recommendation of the Commission, the power to take down all the bridges in the county if the Commission think it necessary to do so, and to rebuild them at the expense of the county.

Mr. Lane.] Where it is necessary or desirable for the purpose of carrying out the Act.

882. Chairman (to Mr. Gamble).] What do you say upon this point about the removal of the bridges?—It is in accordance with the recommendation of the Royal Commission.

Chairman.] The grand juries of these counties are very much alarmed by it.

Mr. Lane.] Perhaps I may point out that the expense of every bridge, if it is taken down under this clause, will not be thrown upon the county cess, because there are limitations in Sub-clause 3 which provides that: "If the removal or alteration of any such bridge was, in the opinion of the Lord Lieutenant, rendered necessary by reason of its having been originally improperly constructed, or subsequently altered, so as to be an impediment to the natural discharge of the water, having reference to the state of the river or stream at the time of the original construction or subsequent alteration of the bridge, as the case may be, or if it was in the opinion of the Lord Lieutenant in a ruinous or insecure condition, the expense of the alteration or removal and rebuilding thereof, in pursuance of this section, shall be charged on the county cess of the county." In other words, it is clear that the county, by reason of having improperly constructed it in the first instance, or not having kept it in repair, will have to meet the expense.

Chairman.] What means will the county have of representing their case to the Lord Lieutenant before he acts upon this?

Mr. Lane.] I do not know whether there is any provision for that; but I should say that there will not be the slightest objection to putting in a provision.

Chairman.] Is it on the motion of the Conservancy Board that he is to do it.

Mr. Lane.] The Commission are to do it with his previous consent; and they need not replace in every case an old bridge by a new one, but only where it is necessary that a new bridge should be constructed.

Chairman.] The only question in my mind is whether some machinery ought not to be provided for any person who took exception to the action taken by the Lord Lieutenant.

Mr. Morrison.] I suppose the Lord Lieutenant means the Lord Lieutenant in Council.

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Mr. Lane.] It does not mean the Lord Lieutenant in Council, but he would be advised.

Clause 35 was passed.

On Clause 36.

Mr. Claude Baggallay.] Might I suggest that it would be better if this clause were introduced by the words "subject to the provisions of this Act?" Otherwise there might possibly be a conflict between it and Clause 28. If you look in Sub-clause (a), it runs in line 16, thus: "placing or permitting to remain any mill-dam, navigation weir, fish weir, eel weir, or other obstruction in any such watercourse without the consent of the Commission or the said Board."

Mr. Lane.] I do not think it will be necessary to discuss this: I do not think there can be any objection to it.

Chairman.] The draughtsman says that it cannot affect the interpretation of the clause one way or the other.

Mr. Claude Baggallay.] I should like, if the Committee will put them in order to make it absolutely clear, to put in the words "subject to the provisions of this Act," in line 8.

Mr. Lane.] Every section is subject to every other.

Chairman.] I do not think it is necessary, because, of course, the Act must be read all together, and it would seem to single out this particular clause from all the others. I think we had better not do it.

Mr. Claude Baggallay.] It is usual, I think.

Mr. J. D. Fitzgerald.] It is usual, and that is the reason why we ask for it. The two sections will be contradictory unless you insert in the second section: "subject to the provisions of this Act," because the rule of interpretation is that where there are contradictory clauses in an Act the latter one over-rides the former one.

Mr. Cameron.] There is no contradiction whatever.

Sir Richard Wyatt.] In a Bill of this Session, where I appeared for the Admiralty, the War Office, and other public Departments, the Medway Conservancy Bill, wherever the provisions were likely to clash with those introduced for the protection of the public Departments they were introduced with the words, "subject to the provisions of this Act." The practice, I may say, is quite so.

Mr. Claude Baggallay.] If you look at Clause 28 it says: "Nothing in this Act shall authorise or empower the Commission or the Conservancy Board to make any bye-law, or do any other act or thing which shall cause any permanent and injurious alteration in, or interference with any salmon weir."

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Mr. Lane.] There they could not do it.

Mr. Claude Baggallay.] But under Clause 36 it says: "The Commission, or the Conservancy Board, after the works have become vested in that Board, may respectively from time to time make, alter, and repeal bye-laws (a) for prohibiting persons from throwing, or causing, or suffering to fall or pass into any watercourse in respect of which any works have been commenced, or executed, or are maintained by the Commission, or the said Board, any weeds, stones, soil, or other solid matter calculated to cause an obstruction therein, or placing or permitting to remain any mill-dam, navigation, weir, fish-weir, cul-weir, or other obstruction." So that the one clause says they must not, and the other clause says they may.

At this point Mr. Littler re-entered the room.

Mr. Littler.] I think my learned friends have been using double million power microscopes in looking at this Bill. The Commission or Conservancy Board may alter and repeal bye-laws, it can be only for the purpose of this Act, and I really do object to the insertion of these unnecessary words.

Chairmen.] We do not think we should introduce these words. Is there any other amendment to this Clause 36?

Clause 36 was passed.

Clauses 37, 38, 39, and 40 were passed, without amendment.

On Clause 41.

Chairmen.] It is proposed to strike out the word "owner" throughout this clause, and to insert the "proprietor." What is the meaning of that?

Mr. Lane.] The amendment is proposed because "proprietor" is the word used in the Drainage and Improvement of Land Act (Ireland), 1862. It is proposed to add at the end of this clause the following paragraph: "All the references in the said Acts or in this section to a proprietor shall, if need be, be deemed to include a reference to the successors, heirs, executors, administrators, and assigns of other persons claiming through or under such proprietor."

Clause 41 was passed, as amended.

On Clause 42.

Chairmen.] It is proposed to insert a rider; will you explain what the rider is?

Mr. Lane.] The Upper Bann navigation is to be transferred to the Lower Bann Navigation Trustees. It was proposed originally only to keep up the navigation in Lough Neagh. There is a little bit of canal where the boats discharge, and the object of these words really is to keep up the navigation in that little bit of canal con-

necting Lough Neagh and Lough Beg (describing it on the map).

Mr. Claude Baggallay.] Might I call your attention to lines 35 to 38 on page 23 of the Bill. There it is provided that "all property, choses in action, powers, rights and privileges of any such corporation or board shall be transferred to and shall at first vest in and be exercisable by the Commission, and when the works become vested in the Conservancy Board shall vest in and be exercisable by that board." The purpose of the words that we propose is that they shall vest in and be exercisable by them subject to the provisions of any Act or Provisional Order relating to or affecting them. The words that I have to propose are these to come in at the end of line 38: "And when the works become vested in the Conservancy Board shall vest in and be exercisable by that board, and shall vest in and be exercised by such board subject to the provisions of any Act or Provisional Order immediately before such vesting relating to or affecting the same."

Mr. Lane.] That would be entirely wrong, for this reason: it is not intended to keep up the navigation of more than a small part of Lough Neagh, and that would oblige the whole of the navigation to be kept up; and in addition to that it would be repugnant to the clause which the Committee have just passed. The effect would be to oblige all existing bodies to keep up the existing navigation which the Bill proposes to abolish after you dissolve them.

Clause 42 was passed without the amendment proposed by Mr. Claude Baggallay.

Clause 43 was passed.

On Clause 44.

Mr. J. D. Fitzgerald.] In the first line of Clause 44, after the words "in this Act," will you allow me, Sir, to put in "and for the purposes of this Act in the Acts incorporated herewith." The object of that is this—

Mr. Littler.] We do not object to that.

Mr. J. D. Fitzgerald.] I assume that you do not. The Lands Clauses Act does not include any fishery rights at all, and it has been intended to provide for that by inserting a definition of "lands" at line 21 of this clause. But in that definition "lands" is declared to have "the meaning attached thereto in the Lands Clauses Acts, and includes any estate or interest in land, and also any right of water, right of fishing, right of way, or easement"; and that only extends to this Act, and not to the Acts incorporated therewith.

Mr. Lane.] In substance I have no objection to the alteration, but I think it would come in more readily at line 22, after the word "land." "In this Act and in the said

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said Acts for the purposes of the said Act."

Mr. J. D. Fitzgerald.] If you please.

Sir Richard Wynn.] Now this clause, Sir, I have shown to the learned Counsel for the Promoters, and they assent to it.

Mr. Lenn.] Yes, that is right.

Clause 44 was passed.

Mr. Pope.] I understand that there is some little difference between my learned friend and ourselves as to what should be covered by the compensation which he admits that we ought to receive. I must recall to the minds of the Committee (and I do so with some surprise I confess) what took place on Friday, when I dealt with this matter before. You will remember, Sir, that I commenced and pointed out that the question of the sufficiency of the compensation would depend upon whether it was restricted, as I say it is in the Bill, to the execution merely of works or to the powers which are given to Section 11 of the Bill; which go beyond the construction of works, even to the abandonment of the navigation, and the necessary consequence. I think I may as well read exactly what took place. You will find it upon page 41. I said "The only question that I will ask my learned friend is whether he has considered the extent to which the compensation is to apply. He used the word 'works.' You know that by Section 11 of the Bill a great deal may be done by the new board (we do not know what, and nobody knows what; of course it will be in their discretion) which might be more injurious to the fisheries than the construction of the new works. For instance, by Section 11, the Commissioners are to have the power of varying the embankment and works, or of deepening, widening, and straightening, embanking, and otherwise improving the water-courses or outfalls, and of removing any mill dam, navigation weir, fish weir, ell weir, sluice, or other obstruction, to any watercourse, and so on;" (I was then reading the powers which were to be given under Section 11) "and of making any new water-course, or outfall for water, and of erecting any new embankment; and further, they may, if they choose, provide for the abandonment of the navigation altogether. If my learned friend means compensation for any damage resulting from the execution of the powers of the Act" (obviously referring to the execution of powers that would be given by Section 11) "then, I think, I should be content, because if it should be necessary —" Then my learned friend, Mr. Littler, interposes, and says, "I will relieve my learned friend Mr. Pope. I think that ought to be so." Then I said, "Then in principle we are agreed, and, therefore, I do not intervene on the preamble." "Our desire," says Mr. Littler, "is not to put in an illusory clause but an honest one," whereupon the matter dropped. Now, if you will kindly refer to Clause 26 of the

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Bill which I understand my learned friend declines to amend or to supplement it is simply this: "The Commission and the Conservancy Board may for the purposes of this Act, from time to time purchase and acquire any lands within the catchment area, and employ such contractors, surveyors, agents, and workmen as they think fit, and by themselves and their contractors, surveyors, agents, and workmen, enter upon any land, and proceed with any works upon such land which they are authorised to execute, and do all things upon and affecting any land which are necessary or proper for the execution of those works" (that simply gives them the power of entry upon adjoining lands for the purpose of executing works), "making compensation to all persons for any loss or injury occasioned to them by the exercise of such powers." That is entry upon adjoining lands for the purpose of executing the works; that is absolutely inconsistent with the assurance which my learned friend gave me when I was pointing out that the powers given under Section 11 might result in much greater injury to the fisheries than merely the execution of works; and my learned friend says, "I think that ought to be so." I use the exact phrase. "If my learned friend means compensation for any damage resulting from the execution of the powers of the Act, then I think I should be content. All I propose is a clause which uses these words: 'The Commission and the Conservancy Board, or the Lord Lieutenant, as the case may be'; and I will say why the Lord Lieutenant is mentioned; it is because he is made a substitutionary power for the execution of the works in the event of there not being carried out. That is the only reason why he is mentioned nominally."

Mr. T. W. Russell.] Are you proposing a new clause?

Mr. Pope.] I am, in accordance as I venture to submit with the express understanding which I came to with my learned friend when I was discussing the matter the other day. You will remember that my learned friend said, and very truly, "It is not a mere question of private interest; no doubt the lessee of the fishery has a private interest in it, but it is also a question of a national food industry," and various other considerations arise which my learned friend thoroughly recognised. What I propose is this, "The Commission," and so on, "as the case may be shall from time to time make compensation to the Irish Society and their assigns in estate and leasees as the case may be in respect of any damage or loss occasioned to them or any or either of them by the exercise of any of the powers of this Act," using the precise phraseology which I did use, and which my learned friend assured me should be respected.

Mr. Littler.] Show me where it is not met by the Act as it stands.

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Mr. Pope.] I have already told you that the only provisions for compensation in the Act is under Section 26, which I declare, as a lawyer, in my judgment absolutely limits the compensation to the power given under Section 26. Let me read it again; I do not think that my learned friend can have seen what the meaning of the compensation is.

Mr. Littler.] Have you read Clause 25 as you are so indignant about it? I see no ground for indignation. The Lands Clauses Act is incorporated.

Mr. Pope.] The Lands Clauses Act does not grant compensation for a fishery unless the fishery is declared to be within it.

Mr. Littler.] The fishery is declared to be within the Lands Clauses Act. The whole thing is covered.

Mr. Pope.] The Lands Clauses Act does not provide for injury by any exercise of the powers of this Act. Will my learned friend point out to me under what section of the Lands Clauses Act I can get compensation for damage to my fishery if the Commissioners do anyone of these things under the powers of this Act? In fact their compensation is absolutely limited to works. Where under the 68th Section of the Lands Clauses Act could I get compensation if I am injured by the removal of any mill-dam I am by the abandonment of the navigation, by the alteration of the water level, or by the power to make bye-laws, and the other powers which are given under that section? That is what I am afraid of. It is not merely the execution of works. But let me just give an illustration of what might occur. If the navigation were abandoned the maintenance of the lock-gates would no longer become necessary. The channel of the river and the current might be diverted through those lock-gates, instead of passing over the weir and through the pass as now. That would be an injury to me; what would be the extent of it, I do not know, but I should feel very doubtful to assert that that is a "work;" it is an exercise of the powers of the Act; but it is not a work, and I am only entitled to be compensated for what my learned friend does by the execution of the powers in respect of works. The incorporation of the Lands Clauses Act may be sufficient where the works affect my fishery.

Mr. Littler.] Does my learned friend know that in Clause 13 the words "exercise of the powers of this Act" have been inserted by the Committee this morning.

Mr. Pope.] Of course, I did not know that they had been inserted this morning, nor have they been till this moment, so far as I know.

Mr. Littler.] They are inserted in Clause 13.

Mr. Pope.] I do most deliberately say that this does not meet the understanding under which we left the Committee.

Mr. T. W. Russell.] Take the case that you assume; would not the opening of a lock gate that is now closed be a work?

Mr. Pope.] No; assuredly not.

Mr. Littler.] It is one of the things that we take power by this Act to do. It is a work which we take power to execute.

Mr. Pope.] Let us see whether this, which my learned friend throws at my head for the first time, really meets the case.

Mr. Littler.] That is not fair; it has been before the Committee all the morning.

Chairman.] I think Mr. Pope will find that a good deal of his argument has been met by the amendments which have been made in the course of the day.

Mr. Pope.] I have only this moment seen them; I do not know whether Sir Richard Wyatt has had them sent to him. If you will allow me to look at them I will see whether they meet the point. This is the provision of money for compensation, but it does not entitle me to it. It is an insertion of words in the clause providing money for compensation, but without giving me any title to claim compensation.

Mr. Littler.] Clause 25 give you power to claim it.

Mr. Pope.] Clause 25 does not give it. My learned friend throws Clause 13 at my head, at this moment, with his own hands, and tells me that it meets it. I will point out, in a moment, that it has no more to do with it than the clause at the end, as to the payment of the costs of this Act.

Chairman.] We have been going through these matters all the morning. Of course we quite understand that it was impossible for you, Mr. Pope, to be here all the time, but we are willing to wait for a minute or two while you look at it, and I think you will then be satisfied.

Mr. Pope.] Of course, I have no desire to go back upon any decision of the Committee if the Committee have decided that the amendments are equivalent to my learned friend's undertaking that we shall be compensated if we are injured by the execution of any of the powers of this Act. I am not going to dispute that; I must consider it hereafter, and see whether that is really so; if not, we must insist upon it elsewhere.

Chairman.] I think Sir Richard Wyatt will explain to you what has really happened.

Mr. Pope.] I am sent for here because Sir Richard Wyatt believes that the amendments of the Bill are not sufficient to secure that which on Friday it was held that we were entitled to be secure in, namely, that

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if in the execution of the powers of the Act we are damaged, we are to be entitled to compensation. Now, the provision of money compensation gives us no title to that; it has nothing on earth to do with it. Section 13 is not an amendment which affects that case at all. My learned friend says that there is some alteration in Clause 25.

Mr. LITTLE.] Section 13 and Section 25, taken together, make it plain.

Mr. POPE.] Section 13 merely provides for the finding of the money.

Mr. LITTLE.] If you, not having been here, will not listen to what is said to you, I must leave you alone. Probably I know as much as anybody what has been going on.

Mr. POPE.] I am perfectly right. I was arguing on Friday, that independently of and in addition to the injury which might be inflicted by the execution of works, there were injuries beyond which might be inflicted by the execution of the powers of the Act which are not works; and I left the Committee thinking that I and my learned friend were entirely at one, that we ought to be compensated for any possible injury, whether directly occasioned by works, or by the execution of the powers of the Act, not works. Now then let us see what is the compensation to which one is entitled. Section 25 provides that, "Where the amount of any purchase-money or compensation to be paid by the Commission or Conservancy Board to any person, the amount thereof shall be settled by arbitration in manner provided in sections 25 to 27 (both inclusive), of the Lands Clauses Consolidation Act, 1845, and not otherwise. Provided, however, that where the amount of any purchase-money or compensation claimed in respect of any land required by the Commission or the Conservancy Board, or in respect of any damage occasioned by the exercise of any powers for the execution of the works authorised by this Act." I say that that is a clear limitation. It does not carry me to compensation for the execution of the powers of the Act. It is the powers of the Act so far as they authorise works. You may, under Section 11, do a great deal to injure us by what are not works.

Chairman.] Will you specify them?

Mr. POPE.] I will call Mr. Moore, and he shall tell you what is the injury that he apprehends. That is what I should have done on Friday, if I had not understood that we were agreed.

Mr. T. W. RUSSELL.] Everything in Section 11 represents works.

Mr. POPE.] That is not so.

Mr. LITTLE.] You will find that it is headed "works," and it is works throughout.

Mr. POPE.] The heading does not matter. The marginal note, which nobody knows better than my learned friend, is no part of

an Act of Parliament, has the word "works" in it; but the heading of Section 11 is: "In order to carry into effect the purposes of this Act, the Commission may construct the embankments and works shown in the said plans, subject to the power of varying the same by means of an Order in Council, as hereinafter provided; and may also within the catchment area—(a) deepen, widen, straighten, embank, and otherwise improve any watercourse or outfall for water, and remove any mill-dam, navigation weir, fish weir, eel weir, sluice, or other obstruction, to any watercourse or outfall for water, and raise, widen, and otherwise alter any wall, embankment, mill-dam, navigation weir, fish weir, eel weir, sluice, or any dam or defence against water; and make any new watercourse, or outfall for water, and erect any new embankment, dam, weir, sluice, or defence against water, and fill up or re-open any disused watercourse; and (c) provide for the abandonment of the navigation of the Lower Bann." With all its consequences, whatever they may be. That is not a work. To abandon a work is not to construct a work. Supposing that they abandon a work and let it go to ruin, is that doing a work? And yet that might be a great deal more injurious to us than the construction of any work. Then the clause goes on, "and regulate, control, and alter the water level of the Lower Bann, and of any watercourse within the catchment area; provided, however, that it shall not be lawful for the Commission or for the Conservancy Board when the works become vested in them, to open or to keep open the sluices at Toome at any time when the water in Lough Neagh is at or below the summer level; and (d) temporarily stop the navigation in any watercourse; and (e) erect any machinery and any acts and things necessary or proper for effecting the above-mentioned purposes, or one of them."

Mr. T. W. RUSSELL.] On the question of providing for the abandonment of the navigation, they could not provide for the abandonment of the navigation of the Lower Bann without removing the locks, and that would certainly be a work.

Chairman.] The Committee have really been over all this ground already, and we have decided that such abandonment as you are now referring to would be an act for which we should not be disposed to give compensation.

Mr. POPE.] If you have come to a decision it was useless sending for me to re-argue the question, and it is the courtesy of the Committee alone that justifies my being here.

Chairman.] Not at all; we are very glad to hear you.

Mr. POPE.] Again, Sir: look at Section 36. If you have decided that in your judgment the amendment is sufficient to cover the right to compensation which I thought I was entitled to for anything done in the execution of the powers of the Act

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do not understand me as wanting to go back upon your decision.

Chairman. We come to the conclusion that the alterations which we have made in the Bill to-day have sufficiently covered the undertaking given on the last day. You may think our decision right or wrong, but we have gone into the whole subject carefully and thoroughly.

Mr. Pope. I am, of course, not entitled to go behind the decision of the Committee; I must reserve my right to consider it elsewhere if necessary.

Mr. J. D. Fitzgerald. I was asking something more than was agreed to be given by Mr. Littler, and I expressly put it upon that ground.

Chairman. If Mr. Pope brings up any new clause which is outside the decision that we have already arrived at, we will of course, hear it argued; but as I understand Mr. Pope, he is re-arguing the very ground which we have heard discussed this morning already.

Mr. J. D. Fitzgerald. The point which I submitted to you was whether Colonel Bruce was not entitled to get compensation for what was not legal damage, and that

point you ruled against me, but that is very different from what Mr. Pope has brought up, which is whether the Bill gives compensation for legal damage?

Chairman. The Committee are of opinion that it gives an opportunity for obtaining compensation for all the damage that can be legally claimed. Then nothing further remains except the Schedule.

Mr. Claude Baggallay. There is another proposal that I have to submit to the Committee. (*The learned counsel read a clause as to the artificial propagation of fish.*) This is a several fishery of which the Irish Society are the sole owners, and the proposal is that all the parties under them shall have power to erect and attach to these walls and weirs, &c., for the means of capturing fish for the purposes of artificial propagation, and to maintain and use the same from time to time. Perhaps I might call Mr. Moore, the lessee of these fisheries, to explain exactly why he would wish to have this clause in.

Mr. Littler. I do not know whether my learned friend is aware that it has already been decided that there is no such thing as a several fishery in the Bann. Why should the Irish Society have that which nobody else has?

MR. ROBERT LYON MOORE, sworn; and Examined.

Mr. Claude Baggallay.

883. You are the lessee of these fisheries of the Irish Society, are you not, in the Bann?—Yes, I represent the lessees.

884. You are the managing partner of the lessees?—Yes.

885. Will you explain to the Committee exactly what it is that you want to do under the provisions of this Act?—We are desirous that there should be power given to some person, either the Commission, or the Inspector of Fisheries, or the Board of Works, or the Conservancy Board (I cannot tell you which) to permit us to place crives during certain portions of the year for the capture of salmon, for the purposes of artificial propagation, as we propose erecting very large hatcheries on the Bann.

Chairman.

886. I do not see what that has to do with this drainage Bill; will you explain how you will be prejudiced by the proposal of this Bill?—I cannot do that.

Mr. O'Neill.

887. You have already the power of catching salmon?—Yes, but we cannot catch them at the Cuts. They pass beyond the Cuts. It is from September on that we want to catch them.

Chairman.

888. Is not this to create a new fishery?—No, that capture of salmon would take place under the inspector's license.

Mr. T. W. Russell.

889. Will you not by doing so create a new interest for the Irish Society?—Not at all.

Mr. Littler.

890. Have you your power of doing it now?—Not of attaching to the walls.

Mr. T. W. Russell.

891. Then you are creating a new interest?—We have power to catch salmon anywhere through the Bann.

Mr. Pickerton.

892. How could you think that fish hatching and drainage could go hand-in-hand?—I do not see any reason why they should not.

893. You might as well propose to hatch chickens under this Act, might you not?—

Chairman. Your proposal may or may not be a good one, but it is not within the scope of the Bill.

Mr. Littler. Mr. Moore desires not only a hybrid Committee, but an amphibious Bill.

Chairman. I am afraid that we cannot entertain this clause.

Mr. Claude Baggallay. Then I have to propose this too. This is a general saving clause similar to what the Irish Society have had in other Acts relating to the Bann. "That nothing in this Act contained shall extend

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extend to prejudices, diminish, alter, or take away any of the rights, privileges, powers, and authorities vested in or enjoyed by the Irish Society under or by virtue of any charter or charters heretofore granted to them by the Crown, or of any statute or statutes in anywise relating thereto." That is a similar provision to what has been already inserted in Clause 29 of the Bill with regard to the Countess of Shaftesbury.

Mr. Little.] If my learned friend will put in first the words, "except as otherwise provided," I have no objection to it, because I do not know what his charters are, but I believe they have several sons of them. I have no objection to it; I do not think it does any good or any harm.

Mr. Claude Baggeley.] I do not see why we should not leave it in the same form as it was given in the case of the Countess of Shaftesbury.

Mr. Little.] Because we do know how it affects her, and we do not know how it affects you with all your charters.

Mr. Claude Baggeley.] It does not create any rights.

Chairman.] If you like to accept the words in the way approved of by Mr. Little you can have them, but not otherwise.

Sir Richard Wynn.] We have the charters here.

Chairman.] We cannot go through the charters.

Sir Richard Wynn.] I thought I understood one honourable Member to ask whether the charters were here.

Mr. Little.] I am told that as to the part we deal with they actually claim to derive their title through Lady Shaftesbury.

Sir Richard Wynn.] We are afraid of the precedent.

Chairman.] Are you going to accept the words or not?

Mr. Claude Baggeley.] Yes, Sir.

Mr. Little.] My words are "except as herein provided."

Mr. Claude Baggeley.] "Except as otherwise herein expressly provided."

Mr. Little.] Very well.

Chairman.] You accept the clause with that modification.

Mr. Claude Baggeley.] Yes. I see now that owing to the leaving out of the other clause it will be necessary to put in the full title of the Irish Society from the top of the page.

Mr. Little.] We will put that in.

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Mr. Claude Baggeley.] I have another clause, Sir, to bring up. The Irish Society are the owners, under their charter, of the bed and soil of the River Bann, as well as being the owners of the fisheries. In consequence of that, in other Acts which have been passed (and I will refer you now to Section 36 of the River Bann Navigation Act, 1879) it has been provided that if any deviation of the course of the river should take place, or anything of the sort, then the lands so gained should belong to the Irish Society, and that the rights of fishery should extend over the diverted course of the river. Therefore I propose a clause which is founded upon that, though, of course, I have had to alter the words of it before that clause referred to particular works which were there authorised. The clause which I propose is: "If in, or as the result of the exercise of any of the powers of this Act, any part of the shore, or bed, and soil of the River Bann, now vested in the Irish Society, be inned, or gained, or reclaimed, from the water, the Commission and the Conservancy Board shall not have, or exercise any right upon the same, or in respect thereof, but the inned, gaining, or reclaiming thereof, shall come absolutely for the benefit of the Irish Society and their sequels in estate, and if, in, or as the result of the exercise of any of the powers of this Act, the River Bann, or any part thereof, or the course thereof, shall be diverted, enlarged, reduced, or otherwise altered, the Irish Society and their sequels in estate shall have, and may in all respects exercise the same rights in and over such diverted, enlarged, reduced, or otherwise altered portion of the said river as they had, and might exercise in and over the river, immediately before such diversion, enlargement, reduction, or other alteration was made."

Chairman.] Surely you would have this by right at common law or by statute or in some way. Unless you have it already we are not disposed to give you a new right of that kind.

Mr. Claude Baggeley.] They may divert the river.

Chairman.] Then it is a question of who gets the property. We are not going to vary the operations of the ordinary law.

Mr. Finlinton.] This is in the tidal portion of the river. Would you be satisfied if we would give the Irish Society Lough Neagh and the Bann, and all the fisheries along the shore?

Mr. T. W. Russell.] Do you claim the bed of the whole river?

Mr. Claude Baggeley.] Yes; right up to Lough Neagh I am told.

Chairman.] You have it, or you have it not, and it will come to you in the ordinary course of law if you are entitled to it. We are not going to give it to you by a new clause.

I 3

Mr.

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Mr. Claude Baggallay.] We are not desiring to get a new right; but if a right is taken away from us by the operation of this Act, we submit that we should have the same rights over the new lands as we had over the water which was diverted.

Mr. Littler.] You have the same rights over the new river as you had over the old.

Chairman.] We do not take anything from you by this Bill, and we will give you nothing. Do you submit the clause to be put to the Committee?

Mr. Claude Baggallay.] Certainly I must submit the clause to the Committee.

The clause was rejected.

Mr. Claude Baggallay.] Now I come to the last clause that I have to propose, and that is that the plans which are prepared by the Commission should be deposited somewhere so that the persons interested may have an opportunity of seeing them before the plans are finally agreed upon. The clauses are founded upon similar clauses in the Railways Clauses Act.

Mr. O'Neill.] Is it not in Clause 23?

Mr. Claude Baggallay.] This is more than that. As a rule, where works are authorised plans are deposited which people may see before the works are sanctioned and taken objection to them. That, of course, is not proposed here, but another procedure is adopted, which is of the plans being sent by the Commission to the Conservancy Board. There is no provision whatever made either as to the time at which they should be sent to the Conservancy Board or for giving anybody who is interested in the result of the works an opportunity of being able to bring before the Conservancy Board, for consideration by them, any suggestions in regard to the variation or alteration of the plans; and, similarly, when subsequently plans have to be sent by the Commission, we should not have the opportunity there. All that we ask here is, that similar clauses to those provided by the Railways Clauses Act with regard to the deposit of plans and notices of the deposit should be given.

Mr. Littler.] But that is before you come to Parliament at all; that is with regard to land that is to be taken.

Mr. Claude Baggallay.] All that I proposed is this:—

"(1.) The Commission shall not proceed in the execution of any work under the powers of this Act unless they shall have" (we leave *the reasonable period to the Committee to decide*) at "least previously to the commencement of such work, and, at least, previously to the submission for approval of any plan or section of such work to the Conservancy Board or the Council of the Leró Lientenant deposit with the clerks of the peace of the several counties in which the work is intended

to be executed, a copy of every plan and section to be submitted as aforesaid.

"(2.) The said clerks of the peace shall receive the said copies, plans, and sections, and shall retain the same, and shall permit all persons interested to inspect the same, and to make copies of the same in the like manner and upon the like terms and under the like penalty for default as is provided in the case of plans and sections by an Act passed in the first year of the reign of Her present Majesty, intitled, "An Act to compel clerks of the peace for counties, and other persons to take the custody of such documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

"(3.) Notice of the deposit of every such plan and section shall be published by the Commission within one week after such deposit in one or more newspapers circulating in the district."

Mr. Cor.] This is practically, is it not, the carrying out of the resolution of the Grand Jury of the County of Derry?

Chairman (to Mr. Littler).] Do you see any objection to this?

Mr. Littler.] The simple answer to this is *cut down*. The object of the deposit is in order that all the owners of land through which a railway is going to be made may have the opportunity of petitioning and giving their reasons against it. This is a Bill on the other hand framed on the principle that the Commissioners are hereafter to do that which they think fit, to take such lands as they can get by agreement, and no other. If they want lands other than those which they can get by agreement, they will have to go for a Provisional Order, and then they will have to deposit all these plans as is required in a case of Provisional Order. What he is proposing must take place under the Act which provides for proceedings under Provisional Order. Here that which we propose to do is precisely what any local board in this country has power to do when it sets to work about the drainage of a district. They may go into a man's back garden without any notice or deposit. All that they have to do is to pay compensation, as we are obliged to do here. It is a most unheard of thing to apply the proceedings of another Act of Parliament made in another case, which is not in the slightest degree *in paria materia*, to this case.

Mr. T. W. Russell.] It would bring into play all the amateur engineers of the district.

Mr. Littler.] All the amateur engineers of the kingdom would set to work and advertise themselves in every newspaper in the North of Ireland. My learned friend would be no better off, because he could not do anything to question it.

Mr.

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Mr. Claude Buggelley.] We should know before the matter came before the Conservancy Board, what it was that was proposed to be done.

Mr. Littler.] Look at page 3, line 30; "The Commission shall prepare such further information concerning the proposed works and the charge therefor, and all other matters as may be necessary for enabling the Conservancy Board, when constituted, to determine the expediency of undertaking the works authorised by this Act."

Chairman.] I quite agree with Mr. Littler that this Bill is different in its scheme from

the Acts to which you have referred; and as the Conservancy Board will really be the representatives of all the persons concerned in the matter, and of nobody else, it will be their business and their interest to look into this matter; and I certainly would not encourage people who are not interested to make professional criticisms upon what is proposed by the Commission. We cannot accept that clause.

The Schedule was read, and agreed to.

The Chairman was directed to report the Bill, as amended, to the House.

R E P O R T
FROM THE
SELECT COMMITTEE
ON THE
BANN DRAINAGE BILL:
TOGETHER WITH THE
PROCEEDINGS OF THE COMMITTEE,
AND
MINUTES OF EVIDENCE.

*Ordered, by The House of Commons, to be Printed,
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